

**IN THE HIGH COURT OF BOMBAY AT GOA****STAMP NUMBER MAIN NO.904 OF 2020**

1. Mrs. Blanche Louis de Souza,  
W/o Fready Rodrigues,  
Age 36 Years, married,  
Indian National
  
2. Mr. Fready Rodrigues,  
S/o Mr. Salvador Rodrigues,  
Age – 43 Years, married,  
Indian National,  
Both residing at H.No.32,  
Gorvotti, Nuvem,  
Salcete Goa. ... Petitioners

***Versus***

1. State of Goa,  
Through Chief Secretary,
  
2. Town and Country Planning Department,  
South Goa District Office,  
Osia Commercial Arcade,  
4<sup>th</sup> Floor, B Wing Margao Goa.
  
3. Village Panchayat of Nuvem,  
Nuvem, Salcette Goa,
  
4. Mr. Pedro Joao Rodrigues,  
S/o late Rosario Martinho Rodrigues,  
Age- 68 years, service,  
Married, Indian National,
  
5. Mrs. Pobres Calista Rodrigues,  
W/o Pedro Joao Rodrigues,

Age – 64 years, service, married,  
Indian National,  
Both r/o H.No.32/A, Nuvem,  
Salcette, Nuvem, Salcette Goa. ... Respondents

Mr. Rohan P. Desai, Advocate for the Petitioners.

Mr. D. Pangam, Advocate General with Mr. S. P. Munj, Additional Government Advocate for Respondent Nos.1 and 2.

Mr. D. Vernekar, Advocate for Respondent Nos.4 and 5.

**Coram:- M. S. SONAK &  
SMT. M. S. JAWALKAR, JJ.**

**Date:- 4<sup>th</sup> January, 2021**

**ORAL JUDGMENT ( Per M. S. Sonak, J)**

Heard Mr. Rohan Desai, learned counsel for the Petitioners, Mr. D. Pangam, learned Advocate General who appears alongwith Mr. S. P. Munj, learned Additional Government Advocate for Respondent Nos. 1 and 2 and Mr. D. Vernekar, learned counsel for Respondent Nos.4 and 5.

2. Rule. Rule is made returnable forthwith with the consent and at the request of the learned counsel for the parties.

3. The learned counsel appearing for the respective Respondents waive service on Rule.

4. The challenge in this petition is to the impugned order

dated 10<sup>th</sup> February, 2020 by which the Deputy Town Planner has refused to regularise the construction of the Petitioner compound wall.

5. The record indicates that the hearing was given to the Petitioner by the Deputy Town Planner Mr. R. Shirodkar but the impugned order has been made by the Deputy Town Planner Mr. M. N. Verenkar. Further, Mr. M. N. Verenkar before making the impugned order did not take into consideration the return reply/submissions on behalf of the Petitioner on the ground that the same were filed two days beyond the stipulated period.

6. The learned Advocate General has quite fairly stated that the principle of "*he, who hears, must decide*" has been breached in this matter and therefore, the impugned order may be set aside on this ground alone.

7. Mr. Vernekar, learned counsel appearing for Respondent Nos.4 and 5 submits that the parties he represents are senior citizens and the issue of demolition of compound wall ought not to be unduly prolonged. He therefore submits that some time bound direction be issued to the Deputy Town Planner to dispose of the Petitioner's application for regularisation in accordance with law.

8. Taking cognizance of fair approach on the part of the

learned Advocate General and Mr. Vernekar, as also, on the basis of the circumstances as reflected from the record, we set aside the impugned order dated 10<sup>th</sup> February, 2020 and direct the Deputy Town Planner to reconsider the Petitioner's application for regularisation and dispose of the same in accordance with law and on its own merits as expeditiously as possible and in any case within a maximum period of six weeks from today.

9. The Petitioner and Respondent Nos.4 and 5 to appear before the Deputy Town Planner on 19<sup>th</sup> January, 2021 at 11.30 a.m. No separate notice will be issued to the parties of that date or on some other date convenient to the Deputy Town Planner, opportunity of hearing to be afforded to the parties. The reply/submissions filed by the Petitioner to also be taken into consideration. None of the parties should delay the proceedings before the Deputy Town Planner.

10. The Deputy Town Planner to dispose of the Petitioner's application for regularisation in accordance with law and on its own merits within six weeks from today as stipulated above.

11. Rule is made absolute in the aforesaid terms. There shall be no order as to costs.

12. All concerned to act on the basis of the authenticated copy of this order.

**SMT. M. S. JAWALKAR, J.**

**M. S. SONAK, J.**

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