

IN THE HIGH COURT OF BOMBAY AT GOA**LD-VC-OCW-81-2020
IN
PILWP No. 37 OF 2018**

M/s Kapoor Infratech LLP Applicant
Versus
Ms. Jeannet Gomes & Others Respondents

Mr. J. Coelho Pereira, Senior Advocate with Mr. Somnath Karpe, Advocate for the Applicant.

Ms. Norma Alvares, Advocate for the Original Petitioners.

Mr. Devidas J. Pangam, Advocate General with Ms. Maria Correia, Additional Government Advocate for the State.

Mr. Sandesh D. Padiyar, Advocate for the Mapusa Municipal Council.

Mr. Hanumant D. Naik, Advocate for the North Goa Planning and Development Authority.

Mr. Deep Shirodkar, Additional Government Advocate for Respondent No. 3 in PIL WP No. 37/2018.

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

Date:- 4th August, 2020

P.C.

Heard Mr. Coelho Pereira, the learned Senior Advocate for the applicant, who appears along with Mr. Somnath Karpe. Ms. Norma Alvares appears for the original petitioners in PIL WP No. 37/2018, in which, this civil

application has been taken out. Mr. Devidas J. Pangam, the learned Advocate General appears along with Ms. Maria Correia, the learned Additional Government Advocate for the State. Mr. Padiyar appears for the Mapusa Municipal Council, Mr. Hanumant D. Naik appears for the NGPDA and Mr. Deep Shirodkar appears for respondent no. 3 in PIL WP No. 37/2018.

2. Mr. Pereira, the learned Senior Advocate for the applicant pointed out that he had made a statement on behalf of the applicant that no construction would be carried out on the basis that the property is in C-2 zone and rather, the construction would be restricted on the basis that the property is in S-1 zone.

3. Mr. Pereira states that today, the applicant only wishes to place two water tanks or plastic water tanks on the roof of the second floor. He states that such placement, in fact, does not run counter to the statement made in the main Petition and this application is taken out only by way of abundant caution.

4. Ms. Alvares, the learned Counsel for the original petitioners also says that the statement made may not come in the way for placing such water tanks. However, she submits that the placement of such water tanks may not be construed as some sort of compliances.

5. We clarify that the placement of the water tanks as proposed will not amount to any breach of any statement made by the learned Counsel for the applicant. However, we also clarify that we have not at all gone into the issue of any compliances, even on the basis that the construction is put up in S-1 zone. The issue of compliances, which Ms. Alvares has raised in the main Petition or which have been resisted by the respondents, will ultimately have to be gone into by the authorities in the first instance at the appropriate stage.

6. Mr. Padiyar, the learned Counsel for the Municipal Council states that some permissions may be necessary for placing the water tanks.

7. Mr. Pereira submits that no such permissions are necessary.

8. Again, we refuse to go into such matter as we only clarified that the statement made by the learned Counsel for the applicant will not come in the way of placement of such water tanks. The issue as to whether any permission is necessary or not, it is again for the authority to decide in the first instance and therefore, we leave this issue open.

9. Therefore, with the clarification as aforesaid, we dispose of the application, again, without prejudice to the rights and contentions of all the parties as raised in the main Petition.

10. Liberty is granted to the parties to mention the main Petition in October, 2020 for final disposal. However, such application, if made, will be considered on its own merits, at that stage.

M.S. JAWALKAR, J.

M.S. SONAK, J.