

Santosh

IN THE HIGH COURT OF BOMBAY AT GOA

LD-VC-CW-132-2020

Suvarna Suraj Lotlikar,
C/o. Gopi Mhamal,
Manasa Sarovar, 1st Level,
Near Govt. Circuit House,
Altinho, Panaji, Goa 403 401.

.... Petitioner.

Versus

1. Union of India,
through the Secretary,
Department of Archaeology,
New Delhi;
2. The State of Goa, through
its Chief Secretary,
Alto, Porvorim, Goa.
3. The Archaeological Survey of India,
Through its Director (Monuments-II),
Government of India, Dharohar Bhavan,
24 Tilak Marg, New Delhi;
4. The Superintendent Archaeologist,
The Archaeological Survey of India,
Government of India, Goa Circle,
Church Complex, Old Goa;
5. The Senior Conservation Assistant,
The Archaeological Survey of India,
Government of India, Goa Circle,
Church Complex, Old Goa;
6. The Office of Chief Town Planner &
Member Secretary of Conservation

Committee, Town and Country Planning
Department; 2nd Floor, Dempo Towers,
Patto Plaza, Panaji, Goa;

7. The Village Panchayat Se-Old Goa,
through the Secretary,
Old Goa, Tiswadi, Goa. Respondents.

Mr. Dattaprasad Lawande, with Mr. P. Dangui, Advocates for the
Petitioner.

Mr. Raviraj Chodankar, Central Govt. Standing Counsel for
Respondents No.1, 3, 4 and 5.

Mr. D.J. Pangam, Advocate General with Ms. Maria Correia, Addl.
Govt. Advocate for Respondents No. 2 and 6.

Mr Pankaj Vernekar, with Mr. B. Fatarpekar, Advocate for
Respondent No.7.

***Coram : M.S. Sonak &
Smt. M.S. Jawalkar, JJ.***

Date : 22nd September, 2020.

ORAL JUDGMENT: - (Per M.S. SONAK, J.)

Heard Mr. D. Lawande for the Petitioner, Mr. Ravi
Chodankar, learned Central Government Standing Counsel for
Respondents No. 1, 3, 4 and 5, Mr. Pangam, the learned Advocate
General along with Ms. Maria Correia, Addl. Govt Advocate for
Respondents No.2 and 6 and Mr. Vernekar, for Respondent No.7.

2. Rule. At the request of and with the consent of the learned Counsel for the parties, Rule is made returnable forthwith.

3. The Petitioner claims to be the co-owner of an area of 2400 sq. metres of property bearing Survey No.4/1 of Village Ela (Old Goa), Tiswadi, Goa, (hereinafter referred to as the said property). It is the case of the Petitioner that in the said property, there is a structure admeasuring 397 sq. metres, which was put up prior to 1932 (the said structure).

4. It is the case of the Petitioner that the said structure was indicated in the old Cadastral Survey Plan prepared and promulgated in the year 1932 at serial No.35. The Petitioner has produced on record a certificate from the survey authorities stating that the property surveyed under No.4/1 of Village Ela (Old Goa) corresponds to the old Cadastral Survey No.35.

5. From the returns filed by and on behalf of Respondents No.1, 3, 4 and 5, who are really the contesting respondents in this matter, there is no dispute as regards the existence of the said structure and its reflection in both, the old as well as the new survey records. In fact, all the material averments in the Petition in relation to the said structure, its dimensions and area have not even been seriously traversed by the contesting Respondents in the return filed by them.

6. It is further the case of the Petitioner that some time in the year 1986, the predecessor-in-title of the Petitioner applied for and obtained permissions from the Village Panchayat of SE Old Goa for carrying out repairs to the said structure and on the basis of the same, actually carried out some repairs to it. It is further the case of the Petitioner that despite the repairs, by passage of time, the said structure suffered dilapidation and, therefore, was in need of repairs and renovation.

7. The Petitioner, therefore, applied for and obtained from the following authorities permissions/approvals/NOCs to undertake the repairs and renovation to the said structure :

- (a) Approval dated 28/12/2015 issued by the Goa Coastal Zone Management Authority (page 73 of the paper book);
- (b) Approval/NOC from the Conservation Committee of the Town and Country Planning Department dated 7/10/2016 (page 74 of the paper book);
- (c) Plans approved by the Conservation Committee of the Town and Country Planning Department (page 75 of the paper book);
- (d) Technical clearance order dated 18/10/2016 issued by the Town and Country Planning Department (page 76 of the paper book);
- (e) Construction licence dated 14/11/2016, issued by the Village Panchayat of SE Old Goa (pages 78-80 of the paper book); and

(f) Renewal of Construction Licence dated 4/10/2019 issued by the Village Panchayat of SE Old Goa (page 81 of the paper book).

8. Since the said structure which is now proposed to be repaired and renovated, is at a distance of about 110 metres from the protected monuments under The Ancient Monuments and Archaeological Sites and Remains Act, 1958 (said Act), the Petitioner armed with all the aforesaid permission/approvals/NOCs, applied to Respondent No.3 for necessary permissions in terms of Section 19 of the said Act.

9. Section 19 of the said Act, *inter alia*, provides that no person, including the owner or occupier of a protected area, shall construct any building within the protected area or carry on any mining, quarrying, excavating, blasting or any operation of a like nature in such area, or utilise such area or any part thereof in any other manner without the permission of the Central Government.

10. There is no dispute in the present case that Respondent No.3 was the competent authority to entertain and dispose of the applications under Section 19 of the said Act. The record clearly indicates that along with the application, which was inwards under No.31807 dated 4/1/2019, several documents, including the permissions/ approvals/NOCs referred to above, were enclosed for consideration of Respondent No.3. Besides, in the application, a

clear idea was given to Respondent No.3 about the present condition of the existing structure, as well as its dimensions. In the application, it was stated that permission, if granted, will in no manner harm the archaeological monuments in the vicinity.

11. Since the application inwards under No.31807 dated 4/1/2019 made to Respondent No.3 is the basis of the permission dated 3/2/2020, ultimately issued by Respondent No.3, it is only appropriate that the entire contents of the application inwards on 4/1/2019 are transcribed below for convenience of reference.

“ *Inward No.-31807*
dt – 4/1/2020

From :

*Jose Maria de Gouveio Pinto,
C/o Gopi Mhamal, Manasa Sarovar,
1st level, Near Govt. Circuit House,
Altinho, Panaji Goa – 403001.*

Date :

*To
The Director General,
Archaeological Survey of India,
Dharohar Bhavan,
24 Tilak Marg. New Delhi.*

Sub: Application for permission of Repairs of existing residential house in Survey No.4/1 of Village Ella (Old Goa), Goa.

Respected Madam,

We have an ancestral property bearing Survey No. 4/1 of village Ella in Tiswadi Taluka. This property has our ancestral house bearing House No. 57 registered with the Gram Panchayat. This house was built in the 19th century; Old cadastral map of Goa, prepared in 1932 shows this house and the true copy of the same map is attached herewith for your reference. New Survey Plan and Form I and XIV, receipts of home tax paid have also been attached.

Further, this house was repaired and renovated in 1986 after obtaining permission from the Gram Panchayat. Application made by us and the NOC issued by Gram Panchayat are attached herewith in support of the above statement.

Unfortunately in the year 1992 the said house collapsed due to the cyclone which hit Goa. Since then we were forced to live in the rented premise in spite of having ancestral property and dilapidated house. Due to lack of financial capabilities the work of repairs was not taken up, but now in our old age and for our future generation, we have decided to repair the ancestral house. As there is emotional attachment with this place, our new and old generation wants to cherish the same.

We had made application to various concerned departments such as Gram Panchayat, Town and Country Planning Department, CRZ, National Monuments Authority, Conservation Committee of TCP etc. After a long exercise of documentation and follow ups, we have managed to obtain necessary permission from Gram Panchayat of Ella (Old Goa), Clearance from Town and Country Planning Department. CRZ etc. Since the said property has been marked as Preservation Zone

(Conservation), the proposal was discussed in the Conservation Committee of the Town and Country Planning Department. This committee approved the proposal subject to NOC from National Monuments Authority.

When the files were submitted to the Competent Authority for the state of Goa, nominated under National Monuments Authority processed the file, it was brought to our notice from the Site Inspection Report of the Archaeological Survey of India, that repairs of the house is permissible but the application needs to be made to the office of the Director General, Archaeological Survey of India, New Delhi, and hence we are requesting you to grant us the permission for repairs of the existing house as per the plans approved by Town and Country Planning Department. CRZ and Conservation Committee.

We state that, the proposed repairs of the house which is in dilapidated condition will not harm in any way the archaeological monuments in the vicinity. We also make following things clear to convey that heritage value of this place will not be affected based on following points:

a) Physical impact:

Since our house is located beyond 110 mtrs from both the protected monuments i.e. Viceroy's Arch and St. Cajetan Church at Old-Goa. there will be no physical impact on the archaeological monuments or remains.

b) Visual Impact:

Our house is surrounded by coconut plantation and few modern structures hence visually both the monuments will not be affected from visual integrity point of view.

c) Aesthetic impact:

Our plans have been approved by the Conservation Committee and CRZ which are as per the local architectural and heritage values to match with the aesthetic integrity of the place.

A copy of the letter addressed to your office by the Competent Authority for the State of Goa who is also Chief Town Planner of the Town and Country Planning Department as well as Member Secretary of the Conservation Committee has also been attached for your consideration.

Since our house has almost fallen and we want to repair it, requesting you to grant us the permission so that we can complete the work before monsoon. You are also requested to expedite the matter, since I have obtained other required permissions and even the site inspection of ASI, Old Goa is also done in this matter.

Following Documents have been attached for your reference:

- 1. Ownership Documents*
- 2. Old Cadastral Map showing our ancestral House (1932 Maps)*
- 3. Form I and XIV*
- 4. Survey Plan issued by Department of Survey of Land Records, Government of Goa*
- 5. Application and NOC from Gram Panchayat for Repairs of the House in 1986.*
- 6. Receipt of House Tax paid 1986, and a recent one.*
- 7. Plans approved and approvals by CRZ and Conservation Committee of TCP, Goa.*
- 8. Structural Stability Certificate.*
- 9. Site Inspection Report of ASI, Old Goa*

10. Photograph of the existing structure proposed for repairs.

11. Photographs showing nearest Monument

12. Photographs showing nearby modern structures.

13. Drawings for proposed repairs.

14. Copy of the letter from the office of Competent Authority for the State of Goa/Chief Town Planner/Member Secretary of Conservation Committee, TCP, Goa.

Thanking you,

Yours faithfully,

Sd/-

Jose Maria de Gouveia Pinto

Maria Linette de Abreue Gouveia Pinto”

12. Respondent No.3, upon due consideration of the application dated 4/1/2019, issued the permission dated 3/2/2020 as contemplated by Section 19(1) of the said Act to the Petitioner.

13. Mr. Lawande, the learned Counsel for the Petitioner made it clear that the Petitioner has absolutely no grievance with the permission dated 3/2/2020 issued by the competent authority *i.e.* Respondent No.3. But the grievance of the Petitioner is to certain actions/communications by Respondents No.4 and 5, who are the officers subordinate to Respondent No.3 who, according to Mr. Lawande, are bent upon misconstruing the permission dated 3/2/2020 and, on the said basis, obstructing the Petitioner from proceeding to undertake the repairs and renovation of the existing structure, consistent with the permissions granted by all the

prescribed authorities, including Respondent No.3.

14. In order to appreciate Mr. Lawande's contention, we deem it appropriate to transcribe the permission dated 3/2/2020, issued by Respondent No.3 who is, admittedly, the competent authority in terms of Section 19(1) of the said Act :

“F.NoT-19034/46/2018-M

Government of India

Archaeological Survey of India

“Dharohar Bhawan”

24 Tilak Marg, New Delhi

dated 03 FEB 2020

To

Smt. Suvarna Suraj Lotlekar,

C/o. Gopi Mhamal,

Manasa Sarovar,

1st level, Near Govt. Circuit House,

Altinho, Panaji, Goa-403 401.

Sub : Permission for repairs of existing residential house in Survey No.4/1 of Village Ella (Old Goa) Goa -reg.

With reference to your letter dated nil on the subject cited above, I am to communicative approval of the Competent Authority for taking up repairs of house located in the protected area of two centrally protected monuments i.e. Church of St. Cajetan and Viceroy's Arch, Old Goa. The permission is further subject to following conditions :

- 1. The repair work should be taken up in consultation with the Superintending Archaeological (I/c.) ASI, Goa Circle.*
- 2. The exterior colour should match with the monument.*
- 3. There shall be no change in the facade design.*
- 4. There shall be no building material stacked on the road*

side or near the monument.

5. *There shall be no inconvenience to visitors.*

6. *It should be ensured that no damage is caused to ancient/archaeological structures within the monument area.*

7. *The provisions of AMASR Act, 1958 and Rules, 1959 made there under shall be observed .*

8. *If any object of antique nature is found during the course of work, it has to be submitted to SA (I/c) immediately.*

9. *There should not be any variation in length, breadth and height of the structure after repairs in compassion to the existing dimensions.*

10. *SA (I/c) Goa circle would keep a strong watch on the repair work, documents it periodically and would submit fortnightly report to this office.*

11. *The permission does not cover reconstruction.*

Yours sincerely

Sd/-

Arvin Manul

Director (Monuments-II)

*Copy to : The Superintending Archaeologist (/C),
Archaeological Survey of India, Goa Circle for information
and necessary action please”.*

15. As noted earlier, the Petitioner's grievance is against the communications dated 12/3/2020, 16/3/2020, 23/3/2020, and 2/6/2020 issued by Respondents No.4 and 5, obstructing the Petitioner from undertaking repairs and renovation, consistent with the permissions/approvals/NOCs issued by all the prescribed authorities, including Respondent No.3.

16. With the assistance of Mr. Lawande, the learned Counsel for the Petitioner, and Mr. Chodankar, the learned Central Government Standing Counsel for Respondents No.1, 3, 4 and 5, we have perused the aforesaid communications. The communication dated 12/3/2020 requires the Petitioner to remove the poles erected at the site of the said structure within 24 hours. The communication dated 16/3/2020, once again requires removal of such poles and informs the Petitioner that the permission granted is restricted only for repairs to the existing hut, without any horizontal or vertical expansion. The communication dated 23/3/2020, once again reiterates that the permission dated 3/2/2020 relates to repairs to the existing structure/existing house (hut). This communication also requires the Petitioner to submit several documents, including approved plans, photographs and requires the Petitioner to maintain *status quo* until all this is complied with. The Petitioner is once again directed to remove the poles within 24 hours. The final communication dated 2/6/2020 responds to the responses of the Petitioner and requires the Petitioner to arrange for a joint inspection. In this communication, it is stated that the photograph, plan and the elevation submitted to the office, is found to be bogus as, in reality only a small hut exists in the proposed site. This final communication states that no further communication in this regard will be entertained by Respondents No.4 and 5 until the Petitioner submits the documents as desired by

the said officers.

17. The impugned communications have been sent by K. Amarnath Ramakrishna, Superintending Archaeologist *i.e.* Respondent No.4 to this Petition. The affidavit-in-reply to this Petition has also been filed by the very same officer on behalf of Respondents No.1, 3, 4 and 5.

18. The affidavit filed by Respondent No.4 runs in all, into 7 paragraphs only. There are neither specific denials to the case set out by the Petitioner in the Petition, nor is there any serious defence of the impugned communications dated 12/3/2020, 16/3/2020, 23/3/2020, and 2/6/2020.

19. In paragraph 1 of the affidavit affirmed on 15/9/2020. the affiant has stated that he has been duly authorised to swear the counter affidavit and the counter affidavit is filed by him in his official capacity on behalf of Respondents No.1, 3, 4 and 5.

20. In paragraph 2 of the affidavit, the affiant has stated that he has read the petition and has understood the true meaning and purport thereof.

21. In paragraph 3 of the affidavit, the affiant has stated that the allegations and averments in the Petition against the answering

Respondent are not admitted and deemed to have been denied, except those which are specifically admitted by the answering Respondent. In this paragraph it is also stated that the reply is to oppose the Petition at the admission stage and the affiant reserves liberty to file a detailed reply. However, when the matter was taken up, consent was granted for final disposal of the Petition and no further time was sought to file any reply. Further, this reply was filed after seeking time on two to three occasions and, therefore, nothing prevented filing of the detailed reply, if indeed, Respondent No.4 was serious of defending the impugned communications.

22. In paragraph 4, the affiant has pointed out that as per Section 19 of the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (AMASR Act, 1958), the protected area needs to be maintained and for any kind of construction related activity, the due permission of the Central Government is mandatory.

23. In paragraph 5, the affiant has admitted that permission for repairs to the existing residential house in survey No.4/1 of Village Ela (Old Goa), Goa which falls within the protected area, was communicated to the Petitioner by Respondent No.3 on 3/2/2020. This paragraph then quotes the conditions subject to which such permission was granted by Respondent No.3 and further, in paragraph 6, a copy of the permission letter dated 3/2/2020 is

attached as Exhibit 1.

24. Finally, in paragraph 7, the affiant has made a very general, omnibus and vague statement, which reads as follows :

“7. That anything done which is beyond the conditions stipulated in permission letter is illegal and clear violations of the rules/act and invites action as per the statute. In view of the foregoing submissions as well as rules and regulations as mentioned herein above, the Petitioner is not entitled for any relief from this Hon'ble High Court. Hence it is respectfully prayed that the Hon'ble Court may be pleased to dismiss the instant Writ Petition being devoid of any merit and to meet the end of justice.”

25. Now, Mr. Lawande, the learned Counsel for the Petitioner has made it abundantly clear that the Petitioner is neither undertaking any activity beyond the conditions in the permissions/approvals/NOCs issued by various authorities, including the permission dated 3/2/2020 issued by Respondent No.3, nor does the Petitioner intend to do so. However, Mr. Lawande submits that in the guise of exercising supervision, Respondents No.4 and 5 have no powers or authority to either misconstrue the permissions already granted or introduce further conditions which virtually have the effect of obstructing the Petitioner from undertaking the works, consistent with the permissions granted by several authorities, including Respondent No.3

26. The contention of Mr. Lawande deserves acceptance in the facts and circumstances of the present case. As was pointed out earlier, the Petitioner has obtained permissions from every single authority by disclosing the factual position at the site. The Goa Coastal Zone Management Authority, Conservation Committee of the Town and Country Planning Department, other officials of the Town and Country Planning Department and the Officials of the Panchayat have already issued the clearances and approvals to the proposed works of the Petitioner. There are approved plans placed on record by the Petitioner which have not been disputed by any of the Respondents. In fact, the learned Advocate General and Mr. Vernekar, submitted that the Authorities whom they represent, have issued the necessary permissions, approvals or clearances to the proposed work of the Petitioner.

27. The record indicates that it is only after the Petitioner obtained permission/clearance/NOCs from all such authorities that the Petitioner applied to Respondent No.3 *i.e.* the competent authority for necessary permission under Section 19 of the said Act. As noted earlier, along with the application, the Petitioner enclosed copies not only of the title documents, but all such permissions granted by several authorities in relation to the proposed works. Therefore, it is reasonable to proceed on the basis that it is only upon consideration of all such material, including the plans approved by

various authorities that Respondent No.3 issued the permission dated 3/2/2020 in terms of Section 19(1) of the said Act.

28. Once the aforesaid position is accepted, the role of Respondents No.4 and 5, who are admittedly the authorities/officers subordinate to Respondent No.3, can be only restricted to supervise whether or not the Petitioner is undertaking the works consistent with the plans approved by various authorities, which form the basis of the permission dated 3/2/2020 issued by Respondent No.3.

29. In this case, significantly, Respondent No.3 has not filed any affidavit, opposing the grant of any reliefs to the Petitioner. No doubt, the affidavit filed by Respondent No.4 is also on behalf of Respondent No.3. However, even the Respondent No.4 has merely transcribed the conditions, subject to which the permission dated 3/2/2020 was issued by Respondent No.3. If, Respondent No.3, was of the opinion that permission was not due to the Petitioner to undertake the repair works consistent with the various permissions/approvals/NOCs and the plans approved by the authorities like Conservation Committee, the Town and Country Planning Department, Goa Coastal Zone Management Authority, or the Panchayat, Respondent No.3 might have not issued the permission dated 3/2/2020, or might have required the Petitioner to submit fresh plans for approval.

30. The permission dated 3/2/2020 issued by Respondent No.3 was in response to the Petitioner's application inwards on 4/1/2019 in which the Petitioner had made all disclosures with regard to the existing position of the said structure, its dimensions, as well as area. The Petitioner had also furnished several documents in support of these particulars. It is only reasonable to proceed on the basis that the permission dated 3/2/2020 was issued by Respondent No.3 after considering all these factors.

31. In the aforesaid circumstances, Respondents No.4 and 5 were not justified in issuing the impugned communications which, to some extent, seek to virtually reopen or revisit the permission dated 3/2/2020 which was issued by the competent authority, who is incidentally an officer superior to Respondents No.4 and 5. Under the guise of supervision, Respondents No.4 and 5 could not have usurped such powers unto themselves and issued the impugned communications. In particular, we neither understand, nor appreciate the demand for title documents, or styling of the said structure as some '*hut*', or requiring the Petitioner to restrict the works to the '*hut*'. In issuing such communications, an impression is created that Respondents No.4 and 5 seek to travel beyond the permission issued by their superior *i.e.* the competent authority under Section 19(1) of the said Act. An impression is created that Respondents No.4 and 5 were misconstruing, if not ignoring the

several permissions/approvals placed on record by the Petitioner, which permissions/approvals form the basis of the permission dated 3/2/2020, issued by Respondent No.3. For all these reasons, the impugned communications are liable to be set aside.

32. Mr. Chodankar, the learned Central Government Standing Counsel, in the course of his arguments, however, tried to explain that the communications were being misconstrued by the Petitioner. He pointed out that Respondents No.4 and 5 had absolutely no intention of sitting in judgment over the permission dated 3/2/2020 issued by their superior officer – Respondent No.3. He, however, pointed out that in terms of the permission dated 3/2/2020, repair works have to be taken up in consultation with the Superintending Archaeologist *i.e.* Respondent No.4. This is the reason why Respondent No.4, vide the impugned communication had merely required the Petitioner to furnish the documents like approved plans, so that Respondents No.4 and 5 can effectively supervise and ensure that the works are indeed carried out in accordance with such approved plans.

33. Mr. Chodankar pointed out that even the permission dated 3/2/2020 requires the exterior colour should match with the monument or that there should be no change in the facade design. He points out that in terms of the permission dated 3/2/2020, the

Petitioner can undertake repairs only on the existing plinth and there is no question of the Petitioner putting up any new structure in the said property. He submits that it is only in order to ensure all this, the impugned communications were issued by Respondents No.4 and 5.

34. Whilst we appreciate the contentions of Mr. Chodankar, at least, the contents and the tenor of the impugned communications do not reflect that they were issued by Respondents No.4 and 5 only for the purposes referred to by Mr. Chodankar, the learned Standing Counsel for the Central Government. Be that as it may, if the purpose of issuing the impugned communications was as submitted by Mr. Chodankar, then, some suitable observations are necessary to protect such purposes, now that the impugned communications are to be set aside.

35. Mr. Chodankar pointed out that the permission dated 3/2/2020 issued by Respondent No.3 *inter alia*, requires the Petitioner to ensure that the exterior colour of the said structure should match with the monument and there should be no change in the facade design. He points out that there is a condition that no building material is stacked on the road side near the monument, so that there is no inconvenience to the visitors. There is also a condition that the Petitioner whilst undertaking the works, should

not cause any damage to the ancient/archaeological structures within the monument area. Mr. Chodankar submits that all these are absolutely reasonable conditions which are binding upon the Petitioner. Consequently, Respondents No.4 and 5 who are to supervise the works, have every right for insisting upon the compliance with such conditions since they are for the protection of the monuments in the area.

36. There is nothing wrong in the conditions referred to by Mr. Chodankar as are indeed to be found in the permission dated 3/2/2020 issued by Respondent No.3. Further, as correctly pointed out by Mr. Chodankar, Respondents No.4 and 5 would be acting well within the scope of their powers if they require the Petitioner to ensure that the exterior colour of the said structure matches with the monument and there is no change in the design of the facade as indicated in the approved plans. In particular, it is only appropriate that Respondents No.4 and 5 insist that the facade design is as approved by the Conservation Committee of the Town and Country Planning Department. This is because, the Conservation Committee has expertise and addresses the issues like physical, visual and aesthetic impact which the said structure will have, upon the protected area. Similarly, Respondents No.4 and 5 will be entitled to require the Petitioner to ensure that in the course of works pursuant to the various approvals and the permission dated 3/2/2020, the

Petitioner does not stack the building materials on the road side or near any protected monuments, so as to cause any inconvenience to the visitors to the said monuments. There is also obviously nothing wrong in the condition that the Petitioner must ensure that no damage is caused to the ancient/archaeological structures within the protected area. Therefore, if the scope of the impugned communications was indeed intended or restricted to these limited purposes, we do not think that even the Petitioner might have had any grievances against the same. In any case, we clarify that Respondents No.4 and 5 will be entitled to supervise the works, so as to ensure that the works proceed in accordance with the approved plans.

37. Mr. Chodankar, the learned Central Government Standing Counsel submits that even the documents which Respondents No.4 and 5 required the Petitioner to furnish, were only in order to ascertain the status of the approved plans, so that Respondents No.4 and 5 could ensure that the works proceed in accordance with the approved plans. He submits that there was no intention to go behind the permission dated 3/2/2020 or to travel beyond the same.

38. Mr. Lawande, the learned Counsel for the Petitioner submits that all the relevant documents were furnished to Respondents No.4 and 5. In any case, he submits that all such

documents which have now been furnished along with this Petition, duly served upon Respondents No.4 and 5. Without prejudice, he submits that all the documents referred to in the application inwards to the competent authority on 4/1/2019, will now again be made available to Respondents No.4 and 5 maximum within a period of two weeks from today. This statement is accepted.

39. Upon receipt of the aforesaid documents, Respondents No.4 and 5 will not cause any obstruction or hindrance to the Petitioner undertaking the works consistent with the approved plans by various authorities, including the Conservation Committee, Town and Country Planning Department, Goa Coastal Zone Management Authority and the Panchayat. This is because, even the permission dated 3/2/2020 issued by the competent authority and upon which Respondents No.4 and 5 rely, also in effect approves the works in accordance with such plans/approvals/NOCs, granted by such authorities. In fact, it is on the basis of consideration of such plans/approvals/NOCs, that the competent authority issued its permission dated 3/2/2020.

40. However, taking into consideration the submissions made by Mr. Chodankar, the learned Central Govt. Standing Counsel, we clarify that though we are setting aside the impugned communications, Respondents No.4 and 5 will be entitled to

supervise the works in order to ensure that such works are carried out by the Petitioner consistent with the NOCs and the approved plans issued by the Conservation Committee of the Town and Country Planning Department, Goa Coastal Zone Management Authority and the Panchayat. For this purpose, Respondents No.4 and 5 shall also be entitled to hold joint inspections at the site, from time to time. The Petitioner must, in fact, cooperate with Respondents No.4 and 5 in the course of such joint inspections to be held, with advance notice to the Petitioner.

41. Mr. Lawande, the learned Counsel for the Petitioner has also made a statement on behalf of the Petitioner that the Petitioner will adhere to the plans approved by the Conservation Committee of the Town and Country Planning Department and the NOCs issued by the Goa Coastal Zone Management Authority and the Panchayat, which form the basis of the permission dated 3/2/2020 issued by the competent authority *i.e.* Respondent No.3. We accept this statement.

42. Accordingly, with the aforesaid clarification, we make the Rule absolute in terms of prayer clauses (a) and (b) of the Petition, which read as follows :

“(a) That this Hon'ble Court be pleased to direct the Respondent No.4 & 5 to allow the Petitioner to carry out the repairs and renovation of the structure which is reflected in cadastral survey plan (annexed at page 64) promulgated in the year 1932 bearing survey no.35(part); also reflecting

in survey plan of property bearing survey no.4/1 of Ella Village Old Goa; structure H reflected in for I and XIV Form; and as per the approved plan by the Member Secretary Conservation Committee and Town and Country Planning Department, and plan submitted at page 75; and in terms of Permission dated 03.02.2020 granted by the Director (Monuments-II), the Archaeological Survey of India (Respondent No.3);

(b) To quash and set aside the letter dated 3rd March, 2020, 12th March, 2020, 16th March 2020, 23rd March, 2020 and 02nd June, 2020 issued by the Respondents No.4 and 5 by which the permission granted by the Respondent No.3 has been restricted only to the extent of repairs of the “hut”;

43. Taking into consideration the reasonable approach of Mr. Chodankar, the learned Central Government Standing Counsel, we think that this is not a fit case for imposition of any costs upon Respondents No.4 and 5.

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

Smt. M.S. Jawalkar, J.

M.S. Sonak, J.