

(2017) 02 BOM CK 0231
In the Bombay High Court
Case No : 1060 of 2016

Bhanumati Satardekar, Major

APPELLANT

Vs

Kashinath Ganesh Satardekar & Ors.

RESPONDENT

Date of Decision : 20-02-2017

Acts Referred:

[Goa Panchayat Raj Act, 1994](#), [Section 66\(3\)](#), [Section 64\(1\)](#), [Section 66\(4\)](#)

Citation : (2017) 02 BOM CK 0231

Hon'ble Judges : F M Reis, Nutan D Sardessai

Bench : DIVISON BENCH

Advocate : Nigel Costa Frias, D Pangam, P Faldessai, W Menezes

Final Decision : Disposed off

Judgement

1. Heard Shri Nigel Costa Frias, learned Counsel appearing for the petitioners, Shri D. Pangam, learned Counsel appearing for the respondent no.1, Shri P. Faldessai, learned Additional Government Advocate appearing for the respondent nos.2 and 4 and Shri W. Menezes, learned Counsel appearing for the respondent no.3.

2. Rule.

3. Heard forthwith with the consent of the learned Counsel appearing for the parties.

4. The learned Addl. Government Advocate and learned Counsels waive notice on behalf of the respective respondents.

5. The main grievance of the petitioners is that the respondent no.1 has proceeded to put up a new construction under the guise of the repairs licenses in the subject property surveyed under No.3/3 of village of Reis Magos. Shri Pangam, learned Counsel appearing for the respondent no.1, however, submits that the respondent no.1 is also occupying a house in the same property and

only to settle personal scores the petitioners have filed the present Writ Petition. Shri Nigel Costa, learned Counsel appearing for the petitioners submits that the petitioners are occupying the house in the same property which has a common wall which position is disputed by the learned Counsel appearing for the respondent no.1. The learned Counsel appearing for the local Panchayat submits that in the meanwhile on 13.6.2016 a Stop Work Notice was issued under Section 64(1) of the Panchayat Raj Act and according to him, thereafter a decision was taken at the hearing of the Panchayat and another Stop Work Notice was issued by the local Panchayat. Records however reveal that pursuant to an application filed by the petitioners under Section 66(4) of the Panchayat Raj Act the Block Development Officer has taken action and issued a Stop Work Order. But however, such order was stayed by the Director of Panchayat which ultimately was set aside by an order dated 19.8.2016. The fact as such remains that in the meanwhile taking advantage of the stay granted by the Director of Panchayat, the work has been completed by the respondent no.1. Shri Pangam, learned Counsel for the respondent no.1 states that respondent no.1 has also produced an application for regularisation which is pending before the Collector for consideration. Shri Pangam, learned Counsel also points out that a fresh application for regularisation under the Panchayat Raj Act shall be forwarded to the local Panchayat within one week from today.

6. In such circumstances, we find that the question of entertaining the Writ Petition on the grounds set out in the petition would not at all be justified. But however, the learned Counsel appearing for the local Panchayat/respondent no.1 upon instructions states that a fresh Show Cause Notice would be issued under Section 66(3) of the Panchayat Raj Act in connection with the subject structure.

7. We dispose of the above Writ Petition by directing the local Panchayat to issue such Show Cause Notice within one week from today and proceed to decide the Show Cause Notice within four weeks thereafter. In the meanwhile in case the respondent no.1 files an application for regularisation, such application shall also be decided by the local Panchayat as expeditiously as possible in accordance with law. All the contention of the parties on merits are left open.

8. With the above directions, Rule stands disposed off.