

(2011) 01 BOM CK 0070
In the Bombay High Court
Case No : Writ Petition No. 819 of 2010

Mrs. Maria Manuela E. Da Silva	Vs	APPELLANT
Town and Country Planning Board and Aravin Gomes Pereira		RESPONDENT

Date of Decision : 12-01-2011

Acts Referred:

Goa, Daman and Diu Town and Country Planning Act, 1974 — Section 45

Citation : (2011) 01 BOM CK 0070

Hon'ble Judges : A.P. Lavande, J

Bench : Single Bench

Advocate : J.P. Mulgaonkar, Ad, for the Appellant; A.N.S. Nadkarni and H.D. Naik and G. Shirodkar, Government Advocate for Respondent Nos. 1 and 3., for the Respondent

Judgement

A.P. Lavande, J.—Rule. By consent of learned Counsel for the parties heard forthwith.

2. By this petition, the Petitioner challenges the order dated 7th September, 2010 passed by Respondent No. 1 by which the case of the Petitioner has been remanded to North Goa Planning and Development Authority with certain directions. By the impugned order, Respondent No. 1 has remanded the case back to the North Goa Planning and Development Authority -Respondent No. 2 for the purpose of re-examination of the proposal once again by the authority in terms of the Planning and Development Authority (Development Plan) Regulations, 2000/1989. The Authority has been directed to re-examine the issue in totality and re-submit the same to Conservation Committee within four weeks of the receipt of the order for further consideration and thereafter, submit the decision of the Conservation Committee to the Town and Country Planning Board. Respondent No. 1, in the meantime, has ordered to maintain status-quo.

3. Mr. Mulgaonkar, learned Counsel for the Petitioner submitted that Respondent No. 1 ought to have decided the appeal preferred by the Appellant in accordance with the provisions of the Goa Town and Country Planning Act, 1974 ("The Act")

for short) and the Regulations framed thereunder without remanding the matter to the authority and taking into consideration the order dated 13th October, 2009 passed by the Conservation Committee. He, therefore,

4. Mr. Shirodkar, learned Government Advocate for Respondent No. 1 and 3 submitted that he will have no objection if the impugned order is set aside and Respondent No. 1 is directed to decide the appeal in accordance with the provisions of the Act and regulations framed thereunder.

5. In view of the concession made on behalf of Respondent No. 1, the impugned order dated 7th September, 2010 is quashed and set aside. Respondent No. 1 shall decide the appeal preferred by the Petitioner in accordance with law. It is made clear that the deeming provision as provided in proviso to Section 45 of the Act would not be applicable. Respondent No. 1 shall decide the appeal expeditiously and in any case within a period of eight weeks from today in accordance with law. I have not expressed any opinion on the merits of the case. Needless to mention that all the contentions of the rival parties are kept open.

6. Rule is made absolute in above terms with no orders as to costs.