
(2018) 02 BOM CK 0029
In the Bombay High Court
Case No : 1007 of 2017

Vianaar Homes Pvt. Ltd.

APPELLANT

Vs

State of Goa & Ors.

RESPONDENT

Date of Decision : 13-02-2018

Acts Referred:

Constitution of India, Article 226 -
Power of High Courts to Issue certain writs
Goa, Daman and Diu Land Revenue Code, 1968, Section 32

Citation : (2018) 02 BOM CK 0029

Hon'ble Judges : Shantanu S. Kemkar, Nutan D. Sardesai

Bench : Division Bench

Advocate : Shivan Desai, Purna Bhandari

Judgement

1. Parties through their counsel. Rule. Rule is made returnable forthwith. Heard by consent.

2. By filing this petition under article 226 of the Constitution of India, the petitioner is seeking the following reliefs :

(a) This Hon"ble Court be pleased to issue a writ of certiorari or in the nature of certiorari or any other appropriate writ direction or order, quashing and setting aside the Impugned Communications dated 14/06/2017 and impugned order dated 30/06/2017.

(b) Writ of mandamus or in the nature of mandamus or any other appropriate writ, direction or order commanding Respondent nos. 2 and/or 3 to grant NOC for conversion of their subject plots under section 32 of Goa Daman and Diu Land Revenue Code 1968 in pursuance to application of the Petitioner no. 1 dated 28/06/2016.

(c) Writ of mandamus or in the nature of mandamus or any other appropriate writ, direction or order commanding respondent nos.5 and/or 6 to consider the

application for conversion dated 28/06/2016 as expeditiously as possible.

3. On 30/01/2018, this Court passed the following Order: "After arguing the matter for sometime, on the basis of the consensus arrived at between the parties, the learned Advocate General submits that the petitioners' land in question, including the plots as mentioned in amendment, will be inspected by a team of Forest Department and appropriate report will be submitted before the next date of hearing.

2. The learned Counsel for the petitioners submits that a date for inspection may be fixed, so that the petitioners can also remain present at the time of inspection of the plots in question.

3. As agreed, the petitioners and the inspecting team to remain present at the site in question on 7th February, 2018 at 11.00 a.m.. The Officials of the Forest Department shall inspect the land and the plots in question and submit a report in regard to the prayers made by the petitioners in this petition.

4. While making the inspection and submitting the report, the Officials of the Forest Department shall keep in mind the observations made by this Court in Writ Petition No.382/2010 decided on 2nd May, 2013.

5. The report to be submitted on or before 12th February, 2018.

6. List on 13th February, 2018."

4. In pursuance of the said order, a report has been submitted by the learned Additional Government Advocate. In support of it, an affidavit has been filed by respondent no. 3 Deputy Conservator of Forests, North Goa Division, Ponda Goa.

5. Having gone through the said affidavit and the inspection report filed along with it, we find that the dispute involved in this petition is squarely covered by Division Bench judgments of this court firstly in the case of Smt. Iris D'Mello Versus State of Goa in Writ Petition No.382 of 2010 and connected matters decided on 2nd May, 2013 and in the case of Shri Vithal Balkrishna Thakur Vs. State of Goa in Writ Petition No.534 of 2013 decided on 4th December, 2013.

6. In view of the aforesaid, for the reasons stated in the aforesaid judgments and in view of the inspection report, we are of the considered view that the petition deserves to be allowed by setting aside the impugned communications and impugned orders.

7. Accordingly, we set aside the impugned communications and the orders by directing the respondents to decide the applications filed by the petitioners for conversion of their properties, viz. the Plots bearing P.T. Sheet No10 of Chalta Nos. 21-P, 21-Q, 21-S, 21-R, 21-O, 21-T, 21-I, 21-J, 21-K, 21-L, 21-M, 21-N, 21-G, 21-H, 21-V and 21-U of P.T. Sheet No. 10 of Mapusa City, considering that the same are not parts of the private forest and in accordance with law.

8. Rule is made absolute in the aforesaid terms.