

PIEDADE FILOMENA GONSALVES

v.

STATE OF GOA AND ORS.

MARCH 11, 2004

[R.C. LAHOTI AND DR. AR. LAKSHMANAN, JJ.]

*Environment Protection Act, 1986:*

*Ss. 3(1) and 3(2)(v)—Unauthorised construction in Coastal Region Zone in Goa—A structure of thatched roof converted into a pucca building without obtaining permission of competent authority—Writ petitions filed in High Court—Construction directed to be demolished—Held, the construction is without permission—Goa State Coastal Committee for Environment found the construction falling within 200 metres of High Tide Line and to have been carried on existing sand dunes—The Committee held the construction as violative of the Coastal Regulation Zone Notification dated 19.2.1991—The Notification protects environment and ecology in coastal area—Construction raised in violation of the regulation cannot be condoned—No fault can be found with the view taken by High Court.*

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 960-961 of 2002.

From the Judgment and Order dated 2.3.2000 of the Bombay High Court at Goa in W.P. Nos. 76/95 and 237 of 1999.

Ashok Grover, Ms. Anupama Grover, V.K. Singh and T.N. Singh for the Appellant.

T.L.V. Iyer and Ms. A. Subhashini for the Respondents.

The following Order of the Court was delivered :

The appellant is in possession of a piece of property included in survey No. 54/4 located within the jurisdiction of village panchayat of Colva, Salcete, Goa. It is the appellant's own case, vide para 4 of the writ petition, that earlier there existed a structure of thatched roof supported by laterite stone pillars, which structure was used by sun bathers and visitors. However, in place of

A old construction, appellant commenced putting up fresh construction which resulted into a pucca building coming up in existence in place of the old structure.

B The new building is now a structure of laterite stones and cement with a concrete roof. This construction was commenced on 13.7.1994 and completed on 17.8.1994. Two writ petitions came to be filed in the High Court of Bombay at Goa. CWP No. 76 of 1995 was filed by the appellant's neighbour seeking demolition of the construction put up by the appellant. CWP No. 237 of 1999 was filed by the appellant seeking protection of the construction raised by her. The petitioner in CWP No. 76 of 1995 alleged the appellant's construction to be unauthorised and also violative of High Tide Line in Coastal Region Zone within which no construction is permissible. The Case of the appellant in writ petition No. 237 of 1999 was that the construction put up by her was beyond 200 meters from High Tide Line, and therefore, permissible and that although the appellant's construction was not supported by previous permission by the authorities, the same could be regularised. The D High Court allowed the writ petition No. 76 of 1995 while dismissing the appellant's writ petition No. 237 of 1999. The High Court directed the construction put up by the appellant to be demolished.

E Feeling aggrieved by the common judgment disposing of the two writ petitions, the appellant has filed these appeals by special leave. The learned senior counsel for the appellant has reiterated the same two contentions which were advanced before the High Court. Forceful reliance has been placed on the judgment of the High Court of Bombay delivered by a Division Bench on 25.9.1996 in writ Petition No. 102 of 1996 titled *The Goa Foundation and Anr. v. State of Goa and Ors.*, Wherein the High Court has issued F directions in the matter of determining the High Tide Line on the basis of Hydrographic charts prepared by the Naval Hydrographic Office. The learned senior counsel for the appellant submitted that such a direction issued by the Division Bench of the High Court in another writ petition has been accepted by the respondents and therefore, unless and until the High Tide Line has been determined in compliance with the direction issued by the High Court G on 25.9.1996, the construction raised by the appellant should not be demolished.

We do not think that any fault can be found with the judgment of the High Court and the appellant can be allowed any relief in exercise of the jurisdiction conferred on this Court under Article 136 of the Constitution. H Admittedly, the construction which the appellant has raised is without

permission. Assuming it for a moment that the construction, on demarcation and measurement afresh and on HTL being determined, is found to be beyond 200 metres of HTL, it is writ large that the appellant has indulged into misadventure of raising a construction without securing permission from the competent authorities. That apart, the learned counsel for the respondent, has rightly pointed out that the direction of the High Court in the matter of demarcation and determination of HTL is based on the amendment dated 18.8.1994 introduced in the notification dated 19.2.1991 entitled the Coastal Regulation Zone notification issued in exercise of the power conferred by section 3(1) and Section 3(2)(v) of the Environment Protection Act, 1986, while the appellant's construction was completed before the date of the amendment and, therefore, the appellant cannot take benefit of the order dated 25.9.96 passed in writ petition No. 102 of 1996.

It is pertinent to note that during the pendency of the writ petition, the appellant had moved two applications, one of which is dated 11.7.1995, for the purpose of regularisation of the construction in question. Goa State Coastal Committee for Environment-the then competent body constituted a sub-committee which inspected the site and found that the entire construction raised by the appellant fell within 200 metres of the HTL and the construction had been carried out on existing sand dunes. The Goa State Coastal Committee for Environment, in its meeting dated 20.10.1995, took a decision *inter alia* holding that the entire construction put up by the appellant was in violation of the Coastal Regulation Zone Notification.

The Coastal Regulation Zone notifications have been issued in the interest of protecting environment and ecology in the coastal area. Construction raised in violation of such regulations cannot be lightly condoned. We do not think that the appellant is entitled to any relief. No fault can be found with the view taken by the High Court in its impugned judgment.

The appeals are held devoid of any merit and are dismissed accordingly.

R.P.

Appeals dismissed