

BEFORE THE NATIONAL GREEN TRIBUNAL, PRINCIPAL BENCH, NEW DELHI

M. A. No. 1099/2013

IN

Appeal No. 59/2012

Mr. Filomeno Vincente Gregorio Tomaturgo Rodrigues Vs. State of Goa & Anr.

CORAM: HON'BLE MR. JUSTICE M.S. NAMBIAR, JUDICIAL MEMBER
HON'BLE DR. G.K. PANDEY, EXPERT MEMBER
HON'BLE PROF. DR. P.C. MISHRA, EXPERT MEMBER
HON'BLE PROF. A.R. YOUSUF, EXPERT MEMBER

Applicant / Appellant : Mr. Sandeep Mishra, Adv. with Mr. Naveen Kumar Jain, Adv. and Mr. Nitin Jain. Adv. for Intervener

| Date and Remarks | Orders of the Tribunal |
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| <p>Item No. 1 January 13, 2014</p> <p>DV</p> | <p>By order dated 13.03.2013, Appeal No. 59/2012 was disposed of directing the Appellant to remove two shacks and a part of bar counter shown in the survey map submitted by the Inspector of Survey and Land Records, Margao, Goa situated at plot no. IV. The Appellant was granted liberty to file an application for necessary permission and the competent authority was directed to examine all the relevant aspects prior to granting of such permission.</p> <p>While disposing of the Appeal it was also observed that the Respondents is at liberty to take appropriate proceedings in so far as other structures are concerned, which allegedly fall within the No Development Zone.</p> <p>This Miscellaneous Application is filed by a third party, contending that pursuant to the complaint of the Applicant made to the Respondent No. 2 (Goa Coastal Zone Management Authority) an order was passed on 5.7.2012 directing the appellant to remove the encroachment beyond the boundary wall and appellant challenged that order before the Hon'ble High Court and Respondent No. 2 passed the impugned order dated 23.08.2012. It was further contended that the appellant made a detailed complaint on 03.05.2011 to the Deputy Collector, Margao about the encroachment of the beach land by the Appellant, upon which the Deputy Collector submitted a report along with sketch on 09.05.2011 to the Additional Collector-II, which was</p> |

forwarded to the Respondent No. 2. After considering the complaint dated 03.05.2011 and the Survey report dated 07.05.2012, Respondent No. 2 passed the impugned order dated 23.08.2012 and this Court while disposing of Appeal filed by the Appellant, directed Respondent No. 2 to take appropriate proceedings. It is contended that though the Applicant submitted a complaint dated 18.03.2013, copy of which is annexed as Annexure A-2 and the Respondent No. 2 issued (Annexure A-3) show cause notice to the Appellant on 08.04.2013 and directed the Appellant to file his reply with necessary documents. Applicant filed an RTI application before Respondent No. 2 on 28.08.2013 for getting the reply of the appellant and by annexure A-4 reply it was informed that the information is not available in the office records. It is alleged that appellant did not file any reply till date for the show cause notice. The Applicant, therefore, sought a direction to the Respondent No. 2 to dispose of the matter expeditiously in a time bound period in compliance off the order dated 13.03.2013.

We have heard the learned Counsel appearing for the Applicant. We find that by order dated 13.03.2013 while disposing of the Appeal it was only observed that "*The Respondent is at liberty to take appropriate proceedings in so far as other structures are concerned which allegedly fall within the No Development Zone*" and find no specific direction as claimed by the Applicant. The construction alleged in the Annexure A-2 complaint was not the subject matter of the appeal. In such circumstances, the Applicant is not entitled to get any direction as sought for in this application by filing an application in the appeal already disposed of. The Appellant, if advised, is entitled to challenge the order/inaction of the Respondent No. 2 in an independent proceeding. Accordingly, the miscellaneous application is disposed of.

....., JM
(M.S. Nambiar)

....., EM
(Dr. G.K. Pandey)

....., EM
(Prof. Dr. P.C. Mishra)

....., EM
(Prof. A.R. Yousuf)

