

Meena

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.206 OF 2024 (F)

MENINO FERNANDES

... PETITIONER

Versus

THE SECRETARY/ SARPANCH, VILLAGE
PANCHAYAT OF MAJORDA AND ANR

... RESPONDENTS

Mr. A. Viegas, Advocate for the Petitioner.

CORAM:- BHARAT P. DESHPANDE, J.

DATED :- 14th February, 2024

P.C.:

1. Heard Mr. Viegas, learned Counsel for the petitioner.
2. The challenge in the present petition is with regard to the order passed by the District Court allowing the revision thereby directing the petitioner to remove the structure/shed erected over and above movable gada in which the wife of the petitioner is carrying out business.
3. Mr. Viegas submits that it is not coming under the definition of 'building' as mentioned in the Panchayat Raj Act. He submits that it is only a tent for the purpose of having a shed for the customers who are visiting the gada to have eatables.
4. The record shows that the gada is also a movable gada for which permission has been granted. The petitioner claims that all the permissions are in the name of the wife of the petitioner. However, on the basis of a complaint of respondent No.2 who is claiming to be

an activist, action was taken for the removal of the shed/tent, which the authority considered as a temporary shed.

5. The contention of Mr. Viegas that a temporary shed/tent is permitted as it is not included in definition of 'building', cannot be accepted. Admittedly, the tent/shed is permanently erected over and above the gada though for the purpose of giving shelter or protection to the customers. Admittedly, no permission from the Village Panchayat was obtained for putting up such tent/shed. Tent/shed could be erected only for the purpose of festival or otherwise as provided under the Village Panchayat Act. It cannot be a permanent activity and that too for the purpose of business of a movable gada.

6. Issue notice to the respondents, returnable on 06/03/2024.

7. No case is made out for the grant of any interim stay as according to Mr. Viegas the petitioner is not the person holding licence for carrying out activities in the said gada. Similarly, a temporary shed or tent as claimed by the petitioner cannot be permitted to exist over and above such movable gada for carrying out business activity.

BHARAT P. DESHPANDE, J.