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SLP(C)No. 10912 OF 2000
ITEM No.203

Court No. 7

SECTION IX
A/N MATTER

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No.10912/2000

(From the judgement and order dated 07/07/2000 in WP 106/00
of The HIGH COURT OF BOMBAY AT Goa)

TOWN & COUNTRY PLANNING BOARD

Petitioner (s)

VERSUS

SERRAO FRANCIS SOCORRO & ANR.

Respondent (s)

(With prayer for interim relief)
(For Final Disposal)

Date : 09/02/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S. RAJENDRA BABU
HON'BLE MR. JUSTICE K.G. BALAKRISHNAN

For Petitioner (s) Mr. Harish N. Salve, Solicitor General
Mr. S.V. Deshpande, Adv.
Mr. Pramit Saxena, Adv.
Ms. Anuradh Rastogi, Adv.

For Respondent (s) Mr. Dhruv Mehta, Adv.

UPON hearing counsel the Court made the following
O R D E R

.....L.....I.....J
.SP2

Leave granted.
Appeal is allowed in part in terms of the signed
order.

.SP1

(Meenu Sethi) (R.K. Kumar)
Court Master Court Master

Signed order is placed on the file

.PA
.....L.....I.....J
.PL55

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. 1195 OF 2001@@

Town & Country Planning Board ...Appellant

Versus

Mr. Serrao Francis Socorro & Anr. ...Respondents

O R D E R

.SP2
.....L.....I.....J
Leave granted.

In a proceeding arising under The Goa, Daman and Diu Town & Country Planning Act, 1974 (the 'Act' for short) certain directions had been issued by the High Court in relation to a building constructed by Mr. Serrao Francis Socorro. The question was whether the alteration in the building amounts to development which is contrary to the approved permission. The matter had two rounds of litigation. The original authority to which the question was referred took the view that such development was contrary to the approved permission and, therefore, directed to demolish the alteration. When the matter was carried in appeal to the Appellate authority under Section 45 of the said Act, the Appellate authority reversed that order. The matter was carried further to

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the High Court. The learned Judge of the High Court who considered the matter took the view that the Appellate authority was not justified in passing the order and restored the order of the original authority and while doing so took strong exception to the action of the Appellate authority and stated as follows:

.SP1
.....L.....I.....J

In the order of the Appellate Authority, no reasons are discernible as to how the constructions put up are not development. Prima facie on the same reasoning, the petitioner's construction would also be not development. Under Section 121 of the Planning Act, no suit or other legal proceeding shall be maintained against the Government, planning and Development Authority or any of its officers or persons duly appointed or authorised by it in respect of anything in good faith done or purporting to be done under the provisions of the Act or the Rules or Regulations made thereunder. The Town and Country Planning Board is an Appellate Authority under the planning Act. Section 121 comes into play when the judgment is bona fide. Prima facie, I am of the opinion, the judgment is not benafide. Hence, the office to issue notices to the persons listed in paragraph(21) at serial

Nos. 1 to 8, as to why the matter should not be referred to the Hon'ble Governor of Goa under Section 24 of the Goa Public Men's Corruption(Investigations and Inquiries) Act, 1988 and Rules, 1993. Notices made returnable on 14.7.2000. Office to serve notice through Bailiff."

.SP2

.....L.....I.....J
When an Authority functions under statute and is vested with appellate jurisdiction and exercises its powers

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in those provisions unless there is sufficient material before the Court no inference can be drawn that the action taken by such Authority is result of corruption or otherwise requiring investigation by the Commission constituted under the Goa Public Men's Corruption(Investigations and Inquiries) Act 1988.

In the present case apart from the proceedings in the case no other material is available on the record . By merely looking at the proceedings or the order of the Appellate Authority or when the Appellate authority has stuck to its view taken earlier, no inference can be drawn that the same calls for such action in the matter. In this view of the matter, we do not think that the High Court is justified in having proceeded to direct that the appellant herein deserved to be referred to the Governor of Goa under Section 24 of the Goa Public Men's Corruption(Investigations and Inquiries) Act, 1988 and Rules, 1993. Therefore, that part of the order deserves to be and is set aside. In other respects the order made by the High Court shall remain intact.

Inasmuch as the respondents are not appearing in this case at our instance Mr. Dhruv Mehta, Advocate of

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this Court ably assisted us as Amicus-Curiae and we are beholden to him.

Appeal is allowed in part as indicated above.

.SP1

.....J
(S. RAJENDRA BABU)

.....J
(K.G. BALAKRISHNAN)

New Delhi,
February 9, 2001.