

IN THE HIGH COURT OF BOMBAY AT GOA

Writ Petition No. 559 /2023 (Filing No)

Mrs. Smita Krishna Naik

Wife of late Mr. Krishna Naik,

Age 67 years, Indian National,

R/o. H. no. 396, Babusso Bhat,

Tonca, Caranzalem,

Panjim Goa

.....Petitioner

V/s

1) The State of Goa,

Through its Chief Secretary, having

Office at Secretariat,

Porvorim-Goa.

2) North Goa Planning and Development

Authority,

Through its Member Secretary,

Archdiocese Bldg, 1st floor,

Mala link Road, Panjim Goa

3) The Village Panchayat of Taleigao

Through its Secretary,

Taleigao, Tiswadi - Goa

4) M/s. Priority Constructions,

Having registered office at 2nd floor, Priority
signature, Above Priority Honda, near
Taleigao Bye Pass Road, Taleigao - Goa.

Through its Partner Mr. Swapneel Prabhu
Ulhas Nachinolcar

R/o. Anantdeep 'Odlem Bhat',

Taleigao Goa. Respondents

(All registered addresses)

IN THE MATTER OF
ARTICLES 14, 21, 226 OF
THE CONSTITUTION OF
INDIA

MAY IT PLEASE YOUR LORDSHIPS

The petitioner respectfully states and submits as under.

1. The petitioner is a citizen of India and a resident of above-mentioned address.
2. The respondent no. 4 is a builder, M/s. Priority Constructions, a partnership firm, having its registered office at 2nd floor, Priority signature, Above Priority Honda, near Taleigao Bye Pass Road, Taleigao - Goa.
3. The petitioner by the present petition is invoking the writ jurisdiction of this Hon'ble Court under Articles 226 of the Constitution of India, challenging the development/permissions dated 16/12/2020 under reference no. GPPDA/460/TAL/809/2020, issued by the respondent no. 2 to the respondent no. 4, for the proposed construction of residential cum commercial building in the property bearing survey no. 110/5 of village Taleigao, Bardez - Goa.
4. Within the limits and jurisdiction of the village Panchayat of Taleigao, there exists a property

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known as "GORBHAT" also known as "SOCHIACHI TALEI" bearing survey no. 110/5 of village Taleigao, admeasuring an area of 9662 Sq. mtrs, of village Taliegao, Tiswadi-Goa. The petitioner is a co- owner and in lawful possession of the said property.

Annexed hereto copy of Form I & XIV as **Annexure A.**

5. The petitioner states that as per Outline Development Plan 2028, of Taleigao Planning Area, the aforesaid area earmarked as "Special Residential (SPR) Zone".
6. The petitioner states that the said property was originally belonging to late Shri. Babuso Krishna Naik and his wife late Smt. Laxmi Babuso Naik. Upon the death of late Shri. Babuso Krishna Naik and Smt. Laxmi Babuso Naik, their legal heirs filed an Inventory proceeding before the Civil Judge Senior Division at Panaji, bearing Inventory Proceedings No. 72/2017/A.

7. The petitioner states that in the said Inventory proceedings a family settlement and consent terms dated 22/11/2018 came to be filed by the heirs/legal representatives of late Shri. Babuso Krishna Naik and late Smt. Laxmi Babuso Naik.
8. In the said Inventory proceeding, in terms of the minutes of the meeting and conference of parties a family settlement / consent terms was drawn on 22/11/2018, whereby the parties resolved to divide the said property and to facilitate the division of the said property. In the said minutes of the conference of parties and family settlement / consent terms and the Plan drawn and accepted by all interested parties, the said property was divided into four parts namely Plots A, B, C & D. The plot "A" admeasuring an area 3623.25 Sq. Mtrs. was allotted to the applicant therein and his wife i.e. interested party no. 3. The Plot "B" shown in the said plan admeasuring 3623.25 sq. mtrs was resolved by all the interested parties to be allotted to the

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petitioner and her late husband Mr. Krishna Babuso Naik. The Plot "C" admeasuring an area 1207.75 was allotted to the interested party nos. 5, 6, 7, 8 and 9 and the Plot "D" admeasuring an area of 1207.75 sq. mtrs. was allotted to the interested party nos. 10 and 11.

9. The petitioner states that accordingly the Civil Judge Senior Division at Panjim, disposed off the Inventory Proceedings no. 72/2017/A, by a Judgement and Decree dated 03/01/2019 confirming the allotment as per the consent terms dated 23/01/2018, to the petitioner and her late husband.

Annexed hereto are copies of the consent terms, judgement dated 03/01/2019 and a copy of the family partition plan as **Annexure B. colly**

10. The petitioner states that in the above family partition settlement plan, the petitioner and her husband were allotted Plot B admeasuring an area of 3623.25 sq. mtrs., a 3 meters wide road was also kept through Plot A and B as an access

road to the owners of both the plots. Though the said plots were allotted to the parties in the inventory proceedings however the said property was never divided by metes and bounds till date by carrying out a demarcation of the plots A, B, C and D.

11. The petitioner states that the respondent no. 4 fraudulently and by misleading the petitioner had got executed agreement for Development and Sale dated 11/03/2019 and a Memorandum of Understanding dated 08/02/2019 with the petitioner and her late husband Mr. Krishna Babusso Naik, to develop the said property. The said documents were never registered as per prevailing law by paying the appropriate stamp duty and following the due process. That the respondent no. 4 by misleading/ misguiding the petitioner, had obtained an irrevocable Power of Attorney dated 11/03/2019 from the petitioner and her husband, the said Power of Attorney was executed, however the same was not registered.

10/11/19

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Annexed hereto copy of the Agreement for Development and Sale dated 11/03/2019 and a Memorandum of Understanding dated 08/02/2019 and irrevocable Power of Attorney dated 11/03/2019 as **Annexure C** colly.

12. The petitioner vide letter of revocation/ cancellation dated 22/10/2020 had cancelled the Power of Attorney dated 11/03/2019 executed before Notary Advocate Shri. Arun Wadkar under no. 28125 on 11/03/2019 at Panjim Goa and the notice regarding the termination was published in the daily local newspaper "The Navhind Times" on 24/10/2020.

13. The above facts and circumstances were also informed to the respondent nos. 1 to 3 and the other departments by the petitioner, on 26/10/2020 vide notice for Revocation of Power of Attorney and Objection whereby they were requested not to grant any permission/ approval/ license/ NOC/ certificates for development of

the property bearing survey no. 110/5 of village Taleigao, Tiswadi -Goa.

Annexed hereto copy of revocation/ cancellation dated 22/10/2020 and publication dated 24/10/2020 as **Annexure D** colly.

14. The Petitioner states that when the Respondent no. 4 and its partners having failed to achieve what they wanted i.e., to grab the petitioners plot started targeting them with threats, they hired antisocial elements. The family members of the Petitioner were threatened. Her son came to be abducted. Therefore she had filed a complaint to that effect before the Panaji police station and an FIR came to be registered under FIR No.210/2020 implicating the partners of the respondent no. 4 for commission of offences under sections 342, 365, 506 (ii) read with section 34 of Indian Penal Code. On the basis of the said FIR, the professional criminals engaged by the partners of respondent no. 4 were arrested. The partners of the respondent no. 4,

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namely Mr. Swapnil Ulhas Nachinolkar and Mr. Parind Ulhas Nachinolkar secured anticipatory bail.

15. The partners of the Respondent no.4, i.e. filed a criminal writ petition before this Hon'ble Court seeking quashing of the FIR no.210/2020 registered before the Panaji Police Station. This Hon'ble Court vide Order dated 15.01.2021 dismissed the said criminal writ petition.

Annexed hereto and marked **Annexure E** is the copy of the order dated 15.01.2021 passed in Criminal Writ Petition No. (STM No.1311/2020)

16. The petitioner states that vide deed of sale dated 07/11/2020, the respondent no. 4 had purchased the PLOT A admeasuring an area of 3623.25 sq. mtrs of the property bearing survey no. 110/5 of village Taleigao from Mr. Anand Babuso Naik and Mrs. Arthi Ananda Naique. The respondent no. 4 vide deed of sale dated 21/11/2020, had purchased the PLOT D admeasuring an area of

1207.75 sq. mtrs of the property bearing survey no. 110/5 of village Taleigao from Mr. Manoj Venkatesh Sawant and Mrs. Swarupa Laximona Lohar. The respondent no. 4 vide deed of sale dated 22/01/2021, had purchased the PLOT C admeasuring an area of 1207.75 sq. mtrs of Survey no. 110/5 of village Taleigao from 1). Mr. Rajesh Shivaji Pednekar, 2). Mrs. Sadhika Rajesh Pednekar, 3) Mrs. Swati Shivaji Pednekar, 4) Mrs. Pramodini Shivaji Pednekar and 5) Gitendra Madcoicar.

17. The petitioner states that thereafter the respondent no.4 has also filed a Special Civil Suit bearing no. 2/2021, for Specific Performance under Section 10 of the Specific Relief Act, 1963 and Permanent injunction under section 38 of the Specific Relief Act, 1963 against the petitioner and her family members, before the Civil Judge Senior Division at Panjim, seeking following reliefs;

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- a. For a declaration that the revocation / cancellation of Irrevocable Power of Attorney dated 11/03/2020 by the Defendants 1 & 2 is illegal null and void;
- b. For a decree of specific performance directing the Defendants 1 & 2 to specifically perform their part of the Agreement for Development and Sale dated 11/03/2019 by executing with the Plaintiff and registering before Sub - Registrar of Ilhas, an Agreement for Development and Sale along with Plan, a draft copy of which is annexed hereto as Annexure 15 and further enable and facilitate the Plaintiff in construction of a commercial and residential buildings comprising of Flats and Shops in terms of Agreement for Development and Sale dated 11/03/2019;
- c. For a decree of permanent injunction restraining the Defendants 1 & 2 from entering into any agreement with any third party or creating any third party rights in

respect of the said Plot B or parting with the possession of the said Plot B and/or interfering with the construction activity in the said Plot B;

d. For a decree of permanent injunction restraining the Defendants from interfering in any manner with the Plaintiff's possession of Plots A, C & D and the carrying on with the construction activities in the said Plots A, C & D;

e. For an order of temporary injunction restraining the Defendants 1 & 2 from entering into any agreement with any third party or creating any third party rights in respect of the said Plot B and/or parting with the possession of the said Plot B;

f. For an order of temporary injunction restraining the Defendants from interfering in any manner with the Plaintiff's possession of Plots A, C & D and the carrying on with the

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constructions activities in the said Plots A, C
& D;

Annexed hereto copy of plaint in Special Civil
Suit no. 2/2021 as **Annexure F**.

18. The petitioner on 20/10/2021 filed a written
statement in the said Civil Suit raising the
defense that the respondent no. 4 on the basis of
misrepresentation and by playing fraud on the
rights of the respondent no. 4 coerced the
petitioner in signing the document.

19. The petitioner states that the above suit is
pending before the Civil Judge Senior Division
at Panjim and has been fixed on 09/03/2023 at
2.30 pm for arguments on application for
Temporary Injunction filed by the respondent
no. 4.

20. The petitioner states that the respondent no. 4
had filed an application dated 08/05/2020, under
section 44 of the Goa Town and Country
Planning Act, 1971 for seeking development

Cancelled
on 23/10/20

permissions for construction of residential cum Commercial Building in property bearing survey no. 110/5, Tonca, Caranzalem, Tiswadi Goa along with their application they submitted false plans before the respondent no. 2, by showing a 8 mtrs wide 'existing' access to the plot proposed to be developed , this road in fact does not exist at site. Accordingly based on the said plans the respondent no. 2 had issued the Development permissions dated 16/12/2020, to the respondent no. 4.

Annexed hereto copy of application dated 08/05/2020 along with development permissions dated 16/12/2020 and approved plan as Annexure G colly.

21. The petitioner states that the respondent no. 4 misrepresented facts to the respondent no. 2 whilst applying for development permission and secured the permission by misrepresentation, details of which are;

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a) That the development plan has been approved on the basis of a representation that there exists an 8-meter-wide road to the said property, however in reality there is no such road existing on the site, therefore, the plan submitted by the respondent no. 4 is in contravention of Regulation 6A.4 of the Goa Land Development and Building Construction Regulations, 2010. The project would require a 10 meter wide access road to the property since it is in a special residential zone (SPR).

b) As per the plan annexed to the consent term filed in the Inventory Proceedings no. 72/2017/A. There is a 6 meters wide internal road which commences from the 8 meters wide proposed road (ODP road) and passes through Plot A and Plot B in survey no. 110/5 of village Taleigao and connect Plot C & Plot D. This 6 meters

wide road is shown as 3 meters wide road in Plot A and 3 meters wide road in Plot B, but is meant to be a single 6 meters wide road, this internal road is not shown on the plan submitted by the respondent no. 4 for approval, thus the petitioner would be deprived of her access to her plot B.

c) The development permission dated 16/11/2020 was obtained by suppressing materials facts and by falsely claiming that the respondent no. 4 is the owner of the said property, however there is no title or ownership conveyed in their favour at the time of obtaining approvals.

On basis of PWA

*Cancelled
02/23/2020
only imp
B A CD*

d) That the respondent no. 4 has made a statement in the development plan submitted to the respondent no. 2's office that the plot admeasuring an area 3623.25 sq. mtrs. reserved for future development.



The said statement is a false statement because the said plot belongs to the petitioner and her family and the petitioner has never given any such consent to the respondent no. 4 that the said plot will be reserved for their future development.

- e) That the respondent no. 4 has misrepresented the facts in the plan to the effect that there is an existing 8 mtrs wide road to the plot proposed for development, whereas on the site there is no such road, this is a clear violation of the conditions mentioned in the development permissions and the same is a ground for revoking the development permissions dated 16/12/2020 issued by the respondent no. 2.

22. The petitioner states that the respondent no. 3 based on the development permissions issued by

the respondent no. 2, issued a construction license dated 19/02/2021, bearing no. VP/TLG/CONST.LIC/45/2020-2021/3443 to the respondent no. 4 for proposed construction of residential cum commercial building in the property bearing survey no. 110/5 of village Taleigao, Tiswadi Goa.

Annexed hereto copy of construction license dated 19/02/2021 as **Annexure H.**

23. The petitioner states that the District Collector of North Goa, had issued a conversion sanad dated 29/12/2021 under reference no. RB/CNV/TIS/COLL/04/2021/3385 to the respondent no. 4 and late Shri. Krishna Babuso Naik. By the said Conversion Sanad, the District Collector of North Goa has permitted conversion an area admeasuring 9662 sq. mtrs. Of the property bearing survey no. 110/5-A of village Taleigao, Tiswadi- Goa, for the purpose of residential use with 200% F.A.R.

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Annexed hereto copy of Conversion Sanad dated 29/12/2021 as **Annexure I.**

24. That the respondent no. 4 has obtained aforesaid conversion sanad without having an access to the said property. The plan based on which the conversion sanad is issued is without any access to the plot sought to be converted, therefore the said Sanad is obtained by misrepresentation of facts.

25. The petitioner states that the respondent no. 2 had issued the development plan dated 16/12/2020, without complying with the directions issued by the State of Goa vide its order bearing no. 44/HC/TCP/ 307/2013/ (1498227)/14/3657 dated 08/08/2014, whereby all the authorities were directed not to grant any permissions and not to issue any license for construction or grant any permission for any property development unless there exists a road connecting plot proposed for development, as is required in terms of building Construction

Regulations. Unless the requisite road infrastructure connecting the plot on which development is proposed is physically available at site, no permission be granted.

26. The petitioner immediately filed a writ petition bearing no. 1555/2022 (f) before this Hon'ble Court, seeking following reliefs

a. For a writ of certiorari or a writ in the nature of certiorari / or any other appropriate writ, order or direction thereby quashing the permission dated 16/12/2020 bearing reference no. GPPDA/460/TAL/809/2020 issued by the respondent no. 2 in favour of the respondent no. 4 granting them development permission for construction of residential cum commercial building in the property bearing survey no. 110/5 of village Taleigao, Tiswadi Goa.

b. For a writ of Mandamus or a writ in the nature of Mandamus / or any other

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appropriate writ, order or direction thereby commanding the respondent nos. 1 to 4 to forthwith revoke/ withdraw all permissions for development/ construction granted to respondent no. 5 with respect to the property bearing survey no. 110/5 of village Taleigao, Tiswadi Goa on the basis of the permission dated 16/12/2020 bearing reference no. GPPDA/460/TAL/809/2020 issued by the respondent no. 2 in favour of the respondent no. 4.

- c. For an interim relief thereby restraining the respondent no. 4 from engaging in and or carrying out any development/ construction in the property bearing survey no. 110/5 of village Taleigao Tiswadi- Goa pending the hearing and final disposal of this petition.

27. That this Hon'ble Court vide order dated 18/10/2022 was pleased to disposed off the

above petition as withdrawn with liberty to the petitioner to file an appropriate representation to the Greater Panaji Planning and Development Authority in the context of order dated 16/12/2020.

Annexed hereto copy of order dated 18/12/02020 passed by this Hon'ble Court as **Annexure J.**

28. The petitioner pursuant to this Court's order filed a representation/objection dated 03/11/2022 before the respondent no. 2 with regard to the Development permissions dated 16/12/2020 under reference no. GPPDA/460/TAL/809/2020, granted by the respondent no. 2 to the respondent no. 4, for proposed construction of residential cum commercial building in the property bearing survey no. 110/5 of village Taleigao, Tiswadi Goa, before the respondent no. 2. The above objection pertaining to how the respondent no. 4 has obtained development permissions by

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misrepresenting the respondent no. 2 by showing false information about the access to the property.

Annexed hereto copy of the representation dated 03/11/2022 as **Annexure K**.

29. The petitioner states that since the construction was going on in a very high-handed manner and the respondent no. 2 was failed to take any decision on the above-mentioned representation. The petitioner filed a letter/reminder dated 16/12/2022 before the respondent no. 2 to take action on the above representation.

Annexed hereto copy of the reminder letter dated 16/12/2022 as **Annexure L**.

30. The petitioner in continuation of previous representation dated 03/11/2022 filed another complaint/ objection dated 09/01/2023 before the respondent no. 2, stating to take action on the objection dated 03/11/2022. within 7 days from the receipt of the said complaint. However, till

date no action has been taken by the respondent no. 2.

Annexed hereto copy of the complaint dated 09/01/2023 as **Annexure M.**

31. The petitioner states that due to inaction on part of the respondent no. 2, the respondent no. 4 has deployed more workers on the site and the said work going on full fledged manner. The respondent no. 4 has already constructed the ground floor of the building and the construction work of first floor is in process.

Annexed hereto copies of Photographs dated 03/03/2023 as **Annexure N** colly.

32. The petitioner had engaged the services of a private Architect/ surveyor Mr. Bhagwan P. Devshekar. The surveyor visited the site to determine whether plan for the proposed construction in property bearing survey no. 110/5 of village Taleigao, Tiswadi Goa. has been approved by the Greater Panaji Planning &

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No statement
in report.
No affidavit

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Development Authority taking into account the plan attached to the inventory proceedings and whether there is a road connecting the property bearing survey no 110/5 in which the proposed construction of multi dwelling high rise buildings is planned. The surveyor observed the following at the inspection;

- 1) The construction is proposed to be done in plots A, C, D in survey no. 110/5 of village Taliegao which are shown in plan.
- 2) The plan does not show the roads demarcated as per the plan in the inventory proceedings no 72/2017/A.
- 3) Consequently, there is no access to the Plot B from any side as the 8 mtr access shown in the plan filed in inventory proceedings No 72/2017/A in the court of Civil Judge Senior Division at Panaji-Goa is not provided and it does not reflect on the plan approved by the GPPDA vide

no. GPPDA 460/TAL/809/2020 dated
16/12/2020.

4) The access shown to the property bearing survey no. 110/5, Taleigao Village is through a property of a third party namely Mohamad Ali Gaffar Khan Patel, Jamila Bi, Shabir Khan Patel, Hasmit Bi, Farzanababu Mohammad Ali Khan Patel and surveyed under survey no 110/4, Village Taleigao, Tiswadi Taluka, North Goa. There is no mention if this property surveyed under survey no 110/4 has been acquired by the Government or it is purchased by the developers developing the property. On site there are houses existing in the property bearing survey no. 110/4 of village Taleigao, Taluka Tiswadi Goa and the proposed road, if constructed it will need houses in the property bearing survey no. 110/4 of village Taleigao to be demolished.

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5) On examining the Outline Development

Plan 2028 of Taleigao, there is an ODP road showing passing through property surveyed under Survey No 110/1 which is a private property and belonging to Laxmi Babuso Naik, Krishna Babuso Naik and Anand Babuso Naik and Survey No 110/4, village Taleigao which is a private property, I have identified the proposed ODP road in red in the plan no. 3 annexed.

This road is not yet developed/constructed on site, hence it does not exist on site.

6) Besides this, I have noticed there is no existing Road of 6mtrs. width connecting the property bearing Survey no. 110/5 which is required as per the Goa Land Development and Building Construction regulations 2010.

Hereto annexed and marked as "Annexure O"
the copy the surveyors report with
accompanying plans.

33. The petitioner states that from the aforesaid
report it is obvious that the development
permission dated 16/12/2020 issued to the
respondent no.4 by the respondent no. 2 is
illegal being in violation of the Goa Land
Development and Building Construction
Regulations 2010.

34. The petitioner states that based on the aforesaid
plans, the respondent no. 4 has already started
with the construction of residential cum
commercial building in the property bearing
survey no. 110/5 of village Taliegao, the said
construction works need to be stopped
immediately as the same is in complete violation
of the Goa Town & Country Planning Act, 1974
and the Goa Land Development and Building
Construction Regulations, 2010.

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35. The petitioner states that the development permissions issued by the respondent no. 2 and the construction license issued by the respondent no. 3 are illegal, as the site does not have minimum access required width of 10 meters road required for a multi dwelling project in SPR zone.

36. The petitioners state that the requirements of the multi dwelling project, is that the property needs to have a minimum 10 meters wide right of way as provided in the regulations 6.A.4 of the Goa Land Development and Building Construction Regulations, 2010, "*which mandates a 10 m min. width of road in case of a project in any Special Residential Zone (SPR Zone).*

37. Regulation 12.1 (a) of the said regulations which deals with regulations regarding roads which mentions that 10 -meter road width is inclusive of:

a) Carriage width of 7 meters

b) *Shoulder/footpath width of 1.10 meter of each side*

c) *Width of road side drain of 0.40+0.40 meter on one side*

38. The respondent no. 2 has not complied with the directions issued by the respondent no. 1 vide its order bearing no. 44/HC/TCP/307/2013/(1498227)/14/3657 dated 08/08/2014, which reads as follows:

"In the view of this directions are hereby issued under section 132 of the Goa Town & Country Planning Act, 1974 to all the authorities not to grant any permissions, and not to issue any license for constructions or grant any permissions for any property development unless there exist a road connecting the plot proposed for development, as it required in terms of Building Construction Regulations. Unless the requisite road infrastructure connecting the plot on which development is

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proposed is physically available at site, no permission be granted”.

Hereto annexed and marked as “Annexure N” the copy of Gazette dated 08/08/2014 reference no. 44/HC/TCP/307/2013/(1498227)/14/3657

39. The regulation 3.10 of the Goa Land Development and Building Construction Regulations, 2010 is as under;

Revocation of development permission – The Planning and Development Authority (PDA)/ Municipal Council/Village Panchayat (Corporation) may, subject to the provisions of the relevant act, revoke any development permission/building license, issued under the provisions of these regulations, wherever there has been any false statements suppression or any misrepresentation of material facts in the application or plans on which the development permissions/ building license was based or non-compliance of provisions.

40. The petitioner states that the respondent no. 4 has misrepresented the existence of an 8 mtr wide road to the property bearing survey no. 110/5 of village Taliegao, Tiswadi - Goa, to the respondent nos. 2 and 3 and has obtained development permission and construction license.

41. The petitioner states that no action was forthcoming from the respondent nos. 2 and 3 and the construction work of the said building is going on in the full swing.

42. The petitioner submits that due to the arbitrary and unreasonable conduct of the respondent no. 2 and 3, its fundamental rights as guaranteed under articles 14 and 21 of the Constitution of India have been violated.

43. Therefore, the petitioner is constrained to file present writ petition before this Hon'ble Court on the grounds stated herein below.

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GROUNDS

- a) The petitioners state that the development permissions dated 16/12/2020 issued by the respondent no. 2 and the construction license issued by the respondent no. 3 dated 19/02/2021 are illegal, as the site does not have minimum access required width of 10 meters road required for a multi dwelling residential cum commercial project.
- b) The respondent no. 4 has misrepresented the plans by showing the imaginary road on the said plans which is clear violation of the Goa Land Development and Building Construction Regulations, 2010
- c) The respondent no. 4 has misrepresented the facts in the development plans to the effect that there is an existing 8 mtrswide road at the site whereas, on the site there is no road as such, that the same is a clear

violation of the conditions mentioned in the development permission.

d) The plan which has been approved as annexed to the development permission, demonstrate that the permission has been obtained on the basis of misrepresentation. Even though the Respondent no. 4 is claiming the title and ownership of the plots by virtue of Allotment in the inventory in favour of its predecessor, for which development permission has been granted, the said property was not divided by meets and bounds to identify them in the manner represented by the Respondent no.4 to obtain development permission.

e) As per the plan annexed to the consent term filed in the Inventory Proceedings no. 72/2017/A. There is a 6 meters wide internal road which commences from the

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8 meters wide proposed road (ODP road) and passes through Plot A and Plot B in survey no. 110/5 of village Taleigao and connect Plot C & Plot D. This 6 meters wide road is shown as 3 meters wide road in Plot A and 3 meters wide road in Plot B, but is meant to be a single 6 meters wide road, this internal road is not shown on the plan submitted by the respondent no. 4 for approval, thus the petitioner would be deprived of her access to her plot B.

- f) The development permission was obtained by suppressing material facts and by falsely claiming that the Respondent no.4 is the owner of the property when there was no title or ownership conveyed in their favour at the time of obtaining approvals.

g) Any other ground that may be urged at the hearing of this petition.

44. The petitioner states that the delay in filing the present petition, as the petitioner was awaiting for the decision of the respondent no. 2 on its representations dated 03/11/2022, 16/12/2022 and 09/01/2023 filed by the petitioner.

45. This Hon'ble Court has the jurisdiction to try and entertain this petition.

46. The Petitioner has no other alternate or efficacious remedy available and the reliefs prayed for in this petition if granted will be complete in themselves.

47. The Petitioner has not filed any other petition either in this Hon'ble Court or in the Supreme Court of India, regarding the subject matter of this petition.

48. The petitioner therefore prays that;

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A. For an appropriate writ, order or direction thereby quashing and setting aside the development permission dated 16/12/2020 under reference no. GPPDA/460/TAL/809/2020 issued by the respondent no. 2 to the respondent no. 4.

B. For an appropriate writ, order or direction thereby quashing and setting aside the construction license dated 19/02/2021 under reference no. VP/TLG/CONST.LIC /45/ 2020-2021/3445 issued by the respondent no. 3 to the respondent no. 4.

In the alternative

C. The respondent no.2 may be directed to take appropriate action on the petitioners representations/ complaints dated 03/11/2022 in accordance with law within a time frame determined by this Hon. Court

D. For an interim order directing the respondent no. 4 to refrain from carrying out any construction and development activities in the property bearing survey no. 110/5 of village Taliegao, Tiswadi Goa, pending the hearing and final disposal of this petition.

E. For an interim order directing the Respondent no. 2 and 3 to carry out a joint site inspection and to file the report before this Hon'ble Court as to whether the approved plan issued by the respondent no. 2 is in accordance with the Goa Land Development and Building Construction Regulations, 2010 and as per the site conditions.

F. For ex -parte ad interim relief in terms of prayer clause (c) (d) and (e).

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G. Such other relief's this Hon'ble Court
deems fit in the facts and circumstances
of this case.

Place: Porvorim, Goa

Date :02/03/2023

The Petitioner

AFFIDAVIT

I, Mrs. Smita Krishna Naik, wife of late Mr.
Krishna Naik, retired, age 67 years, Indian
National, Resident of H. no. 396, Babusso Bhat,
Tonca, Caranzalem Panjim Goa, the petitioner
herein, do hereby on solemn affirmation and on
oath states that the contents of paragraphs 1-35,
40-42, 44 and 47 of this petition are true and
correct to my personal knowledge and the
contents of the remaining paragraphs 36-39, 43,
45 and 46 are submissions based on legal advice
received which I believe to be true.

Solemnly affirmed at Porvorim on this 9th day of March, 2023.

Identified by

Adv. G. Malik.
(Adv for the Petitioner)

Smita IS
Deponent

Solemnly affirmed before me by Mrs Smita IS Malik who is identified by Adv G Malik and I personally know. Dated at 9th day of March 2023

Bambarg
Section Officer
High Court of Bombay
at Goa, Porvorim



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Deposits



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