

IN THE HIGH COURT OF BOMBAY AT GOA

MISC.CIVIL APPLICATION NO. 334 OF 2015

IN

SECOND APPEAL NO. 39 OF 2004

RAMAKANT GANGA DEVLII @ RAMAKANT
CANCONKAR.

... Applicant

Versus

BHAGUIRATI N. NAIK GAONKAR
(SIN.DEC.) AND 2 ORS.,

... Respondents

Mr. Vivek Angelo Rodrigues, Advocate for the Applicant.
Mr. Sudin M.S. Usgaonkar, Senior Advocate with Ms. V. Palyekar,
Advocate for the Respondents.

Coram:- F. M. REIS, J.

Date:- 25th June, 2015

P.C.:

Heard Mr. V. Rodrgiues, learned Counsel appearing for the
applicant and Mr. Sudin Usgaonkar, learned Senior Counsel
appearing for the respondents.

2. This is an application filed by the applicant to inter alia seek
modification of the order passed by this Court whilst disposing of the
Second Appeal No.39/2004 on merits.

3. Mr. Sudin Usgaonkar, learned Senior Counsel strongly opposes
the said application as according to him in view of the relief granted
by this Court whilst disposing of Second Appeal No.39/2004 by

judgment dated 14/11/2014, the respondents are entitled to remove the fruit trees which were being cut by the respondents during the pendency of the proceedings.

4. The records reveal that the respondents had filed a suit for declaration and for permanent injunction. The relief of permanent injunction came to be rejected. The relief of declaration was granted, but however, as the negative declaration was also granted by the Trial Court whilst disposing of the suit filed by the respondents, the judgments were impugned before this Court. Ultimately, the Second Appeal was partly allowed taking note of the fact that there was no relief sought by the applicant in the suit to grant such relief. It appears that there was a status quo order operating which prevented the applicant to remove the trees which were cut in the disputed property. It is an admitted position from the record that the status quo order stands vacated and no longer survives. Mr. Sudin Usgaonkar, learned Senior Counsel points out that according to him the status quo order is still in operation. The said contention cannot be accepted as the Second Appeal No.39/2004 itself has already been disposed of. Any interim order stands merged with the final orders. As no permanent injunction has been granted, the question of contending that such status quo is still in operation does not arise. As such, as Mr. Usgaonkar, learned Senior Counsel now fairly accepts that the status quo no longer operates, the question of restraining the applicant from removing the trees cut in the disputed property would

not arise at all. Subject to such clarification the application is disposed of.

F. M. REIS, J.

NH