

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 443 OF 2014

MRS. MARGARIDA F. RODRIGUES AND 2 ORS.,	... Petitioners
Versus	
MR. DOMINGOS XAVIER FELIX GOMES AND ANR.,	... Respondents

Mr. Joaquim Godinho, Advocate for the Petitioners.

Mr. Virendra R. Parshekar, Advocate for Respondents no. 1 & 2

Coram:- N. M. JAMDAR, J.

Date:- 26th February, 2015

ORAL ORDER:

By this petition, the petitioners challenge the order dated 12/5/2014 passed by the learned District Judge, Panaji to a limited extent wherein injunction has been granted in respect of the entire suit property.

2. The petitioner is the defendant in the suit instituted by the respondent-plaintiff in the court of Civil Judge, Jr. Divn., Mapsua. By order dated 21 February, 2014 the learned Civil Judge restrained the petitioner from interfering with the possession and enjoyment of the plaintiffs in respect of the western portion of the suit house, till the disposal of the suit. The petitioners filed miscellaneous appeal before the District Judge, Panaji. The learned District Judge

confirmed the findings of the learned Civil Judge and held that the respondents -plaintiffs needs to be protected in respect of the western portion of the house and dismissed the appeal by order dated 12 May, 2014.

3. Mr. J. Godinho, the learned counsel for the petitioners submitted that a limited grievance in this petition is that while dismissing the appeal, filed by the petitioners, the learned District Judge has not only confirmed the order of the learned Civil Judge but has gone beyond the order and restrained the petitioner from interfering with the entire suit property. He submitted that in absence of any appeal by the respondents-appellants against the order of the learned Civil Judge, this relief could not have been granted. In the order of the learned District Judge there is also no reference as to why the petitioners should be enjoined in respect of the entire suit property. Therefore, inclusion of the words "and the entire suit property" in the operative portion of the order clearly appears to be by way of mistake. It is ,therefore clarified that the order passed by the learned Dsitrict Judge shall be read as the appeal stands dismissed with costs.

4. Mr. V. Parssekar, the learned counsel for the respondents sought to contend that the western portion of the suit house should mean the one which is described in the plaint. Since I am not entertaining the petition on merits and the order of the trial court being confirmed, the

learned counsel for the parties can always proceed on the basis of the order of the trial court and whatever its interpretation.

N. M. JAMDAR, J.

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