

IN THE HIGH COURT OF BOMBAY AT GOA

APPEAL FROM ORDER NO. 48 OF 2011

INDIAN OIL CORPORATION LTD.,
THROUGH ITS SR, MANAGER

... Appellant

Versus

JITENDRA RAGHURAJ DESHPRABHU AND 6
ORS.,

... Respondents

Mr. Nigel Da Costa Frias, Advocate for the Appellant.

Ms. K. Naik, Advocate for Respondents no.1,2.

Ms. S. Mordekar, Addl. Government Advocate for respondents no.4
to 6.

Coram:- C. V. BHADANG, J.

Date:- 21st August, 2015

P.C.:

Heard Mr. Costa Frias, the learned counsel for the appellant, Ms. Naik, the learned counsel for respondents no.1 and 2 and Ms. Mordekar, learned Additional Government Advocate for respondents no.4 to 6. None appears for respondents no.3 and 7.

2. By this appeal, the appellant/plaintiff is challenging the order dated 18/3/2011 passed by the Adhoc District Judge, North Goa, Panaji, in Civil Suit No.54/2009. By the impugned order, the learned District Judge has rejected the application at Exhibit 4 filed by the

appellant seeking temporary injunction in respect of an access road.

3. It is submitted by the learned counsel for the appellant that there are certain subsequent developments after the impugned order was passed and the appellant had obtained certain documents in pursuance of an application filed under Right to Information Act. It is submitted that the said documents are already produced before the Trial Court. The learned counsel also submits that the suit is part heard in which the evidence of the appellant/plaintiff is concluded and the learned District Judge has appointed a Commissioner. It is further submitted that the appellant intends to file an application under Order 39 Rule 4A of C.P.C. before the Trial Court for modification of the impugned order, in view and on the basis of the subsequent events and the documents i.e the letter dated 9/11/2012 issued by the Assistant Survey and Settlement Officer, Panaji, which the appellant has come into possession of.

4. On hearing the learned counsel for the parties, it appears that the appellant is without any order of temporary injunction from the year 2009. The suit is also part heard and is at advance stage of hearing. In such circumstances, the learned counsel for the appellant, on instructions, seeks permission to withdraw the appeal. For the reasons stated above, the appeal is disposed of as withdrawn with no order as to costs. It is made clear that in the event the appellant files an application under Order 39 Rule 4A of C.P.C., the Trial Court

shall decide the same in accordance with law as expeditiously as possible. The rival contentions of the parties on merits are kept open.

C. V. BHADANG, J.

ap/-