

IN THE HIGH COURT OF BOMBAY AT GOA

APPEAL FROM ORDER NO. 42 OF 2015

SHRI DHARMA KRISHNA BHOMKAR.

... Appellant

Versus

STATE OF GOA, THROUGH THE CHIEF
SECRETARY AND 3 ORS.,

... Respondents

Shri Devidas J. Pangam, Advocate for the Appellant.
Shri Manish Damodar Salkar, Government Advocate for
Respondents No.1 to 3.
Shri R. Chodankar, Advocate for Respondent No.4.

Coram:- C. V. BHADANG, J.

Date:- 28th September, 2015

P.C.:

By this appeal, the appellant/original plaintiff is challenging the order dated 27/03/2015 by which the application for temporary injunction filed by the appellant was dismissed.

2. On hearing the learned Counsel for the parties, it appears that admittedly, the respondent no.4 has purchased an area of 500 square metres which is marked as Survey No.14/1-A of village Bhoma. The appellant is the owner of plot no.14/1-B. It appears that there was some discrepancy as to the exact location/alignment of plot no.14/1-A on the location. The learned Counsel for the respondent no.4 has referred to a communication dated 15/07/2003 by which Inspector of Survey and Land Records, Panaji-Goa had informed the Deputy Collector and S.D.O., Ponda about the exact location of the

portion bearing Survey No.14/1-A. There is a survey plan annexed to the said letter which was produced before the Trial Court at annexure "G". It shows the possession of the plot 1-A (as per the site plan/Sale Deed) by a portion shown by dotted lines and the existing position of plot no.1-A as existing on the location.

3. Shri D. Pangam, the learned Counsel for the appellants submits that the only apprehension of the appellant is that the respondent no.4 should not make an attempt to encroach on a land beyond the area of 500 square metres purchased by the respondent no.4 under Sale Deed dated 21/11/1995.

4. Shri R. Chodankar, the learned Counsel for the respondent no.4, on instructions, submits that the respondent no.4 is in possession of the 500 square metres i.e. Survey No.14/1-A as shown by the portion "existing ground position" on the survey plan, annexure "G" produced before the Trial Court, copy of which is also produced for perusal in this appeal and taken on record and marked 'X' for identification. The learned Counsel for respondent no.4 submits that there is no attempt by the respondent no.4 to encroach on a portion beyond the area of 500 square metres.

5. It appears that the learned Trial Court had dismissed the application for temporary injunction on noticing some discrepancy as to the location of the said 500 square metres of Survey No.14/1-A as

per the Sale Deed and as per existing ground position.

6. Be that as it may, having regard to the statement on behalf of the respondent no.4 that respondent no.4 is only in possession of the 500 square metres of land as shown in the existing ground position on the Survey Plan annexure "G" before the Trial Court, the learned Counsel for the appellant submits that appeal may be disposed of.

7. In such circumstances, by consent and subject to the statement on behalf of respondent no.4 as above, the appeal is hereby disposed of with no order as to costs.

C. V. BHADANG, J.

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