

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 783 OF 2015

EASTERN STAR HOTELS AND RESORTS
PVT. LTD. THROUGH REP. AND GM
MR.VIKRAM GOHAR.

... Petitioner

Versus

SHRI INDRANATH BAGKAR AND 13 ORS.,

... Respondents

Mr. Shivan Desai, Advocate for the petitioners.

Coram:- C. V. BHADANG, J.

Date:- 21st October, 2015

P.C.:

Heard Mr. Desai, the learned counsel the petitioners for some time.

2. By this petition, the petitioners, who are the plaintiffs before the Trial Court are taking exception to the order dated 13/7/2015 passed by the learned Civil Judge Junior Division at Pernem in Regular Civil Suit no.102/2011. By the impugned order, the application Exhibit D-62 filed by the petitioners for amendment of the plaint has been rejected.

3. The brief facts are that, the petitioners have filed a suit against the respondents seeking permanent injunction against the respondents from trespassing or interfering in the suit property or any portion thereof or causing damage to the suit property or its

fencing/compound or using any part of the suit property for cremation of dead bodies.

4. It is a matter of record that the Trial Court had refused to grant temporary injunction and this Court by order dated 6/2/2009 passed in Appeal From order No.75/2008 had granted temporary injunction.

5. Be that as it may, by the application Exhibit D-62, the petitioner proposes to incorporate about 20 paragraphs in the plaint mainly on the ground that they are subsequent events and pertain to the instances of infringement of the right of the petitioner over the suit property and as such are necessary for deciding the real controversy in dispute.

6. The learned Trial Court by the impugned order has found that although the Court would be liberal in granting the amendment for incorporation of subsequent events, on facts, it was found that the proposed 20 paragraphs only deal with allegations which are in the nature of the breach of the order passed by this Court. It was found that, as such, the said amendment was not necessary for the purpose of determining the real question in controversy, between the parties. In the face of such a finding, the application came to be rejected.

7. Mr. Desai, the learned counsel appearing for the petitioners fairly

submitted that most of the paragraphs deal with the subsequent events which apart from being matters of record are allegations in the nature of breach of the order of temporary injunction granted by this Court. In such circumstances, I do not find that any exception can be taken to the impugned order refusing to grant the amendment. It is needless to mention that the petitioners would be entitled to rely on such subsequent events which are matters of record during the course of trial in the suit. Subject to this, the writ petition is dismissed.

C. V. BHADANG, J.

ap/-