

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 516 OF 2015

SHRI.ARJUN SAJRO SALKAR (SINCE
DECEASED) THROUGH LRS. AND 3 ORS.

... Petitioner

Versus

SHRI.APPASAHEB ABASAHEB RANE AND 8
ORS.

... Respondent

Mr. Smita S. Gawas, Advocate for the Petitioners.

Coram:- F. M. REIS, J.

Date:- 7th August, 2015

ORAL ORDER

Heard Ms. Gawas, learned Counsel appearing for the Petitioners.

2. The above Petition challenges the impugned Order dated 01.09.2014 passed by the Courts below whereby an application for temporary injunction filed by the Petitioners came to be rejected.

3. It is the contention of the learned Counsel appearing for the Petitioners that the disputed property admeasuring an area of almost 3,00,000 square metres was leased to the Petitioners. Learned Counsel further pointed out that despite of the subsisting lease, the Respondents without any right have interfered with the disputed property and are contemplated to dispose of such property. Learned Counsel further submits that subsequent documents executed by the Petitioner nos. 3 and 4, are fraudulent and without understanding the

contents thereof. Learned Counsel further pointed out that the Petitioners have rent receipts to establish the claim of tenancy and, as such, both the Courts below were not justified to pass the impugned order. Learned Counsel as such submits that the impugned Orders passed by the Courts below dismissing the application for temporary injunction be quashed and set aside.

4. I have given my thoughtful consideration to the said contentions and with the assistance of the learned Counsel appearing for the Petitioner, I have gone through the records. On perusal of the plaint filed by the Petitioners, I find, prima facie, that there are no particulars of the alleged claim of tenancy. Apart from that, the validity of the documents relied by the Respondents which are otherwise disputed by the Petitioners would have to be examined by the learned Trial Judge after evidence is recorded on its own merits.

5. At this stage, prima facie, on the basis of the material on record, the Courts below were justified to refuse the relief for temporary injunction. The orders which are impugned are passed within the discretion of the learned Trial Judge and such discretion has not been exercised contrary to the well settled principles of law in dealing with the application for temporary injunction whilst passing the impugned Orders. There is no case made out for any interference under Article 227 of the Constitution of India. The alleged claim of tenancy for an area of three lakhs square metres as claimed by the Petitioners has

not been prima faice established by the Petitioners. The Courts below have correctly examined the material on record to come to the conclusion that the predicates of granting a temporary injunction have not been satisfied by the Petitioner.

6. Needless to say, the findings in the impugned Order are only prima facie which will not influence the learned Trial Judge whilst deciding the suit on merits. Consequently, the Petition is rejected.

F. M. REIS, J.

arp/*