

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 385 OF 2014

MR. EFIGENIO DIAS AND ANR., ... Petitioners
Versus
MR. MARIANO DIAS AND ANR., ... Respondents

Mr. Carlos Ferreira, Advocate for the Petitioners.
Mr. P. Talaulikar, Advocate for the Respondents.

Coram:- C. V. BHADANG, J.

Date:- 15th April, 2016

P.C.

Heard.

2. By this Petition, the Petitioners, who are the original Plaintiffs, are challenging the concurrent findings of dismissal of their application for temporary injunction. The Petitioners have filed Regular Civil Suit no. 188 of 2012, for declaration and permanent injunction which is pending before the learned Civil Judge, Senior Division at Margao. The dispute pertains to a right of way to land survey no. 159/5 belonging to the Petitioners through the land survey no. 159/3 belonging to the Respondents. It is contended that the Petitioners have perfected the right of way by easement.

3. It was contended on behalf of the Respondents that the land survey no. 159/ 4 and 159/2, which are adjacent and contiguous to

land survey no. 159/5 are also owned by the Petitioners. It is contended that land survey no. 159/2 is abutting an existing public road on the north side. In short, it is contended that the Petitioners have an existing access from the public road through a gate at the north eastern corner of land survey no.159/2. It is denied that the Petitioners have any access through land survey no. 159/3.

4. Both the Trial Court as well as the Appellate Court have found that the Petitioners have failed to demonstrate a prima facie case for grant of temporary injunction.

5. It is submitted by the learned Counsel for the parties that the suit is already fixed for hearing and the evidence of some of the witnesses is already recorded. It appears that the Petitioners are without any interim relief since the year 2012 when the suit came to be filed. Inasmuch as the suit is part heard, the learned Counsel for the Petitioners, on instructions, states that appropriate Orders for expediting the suit may be passed.

6. In such circumstances, the Petition is disposed of with no Order as to costs. The Trial Court shall decide the suit as expeditiously as possible and preferably within a period of one year from the receipt of this Order.

7. Parties to co-operate for early disposal of the suit.

C. V. BHADANG, J.

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