

IN THE HIGH COURT OF BOMBAY AT GOA

APPEAL FROM ORDER NO. 17 OF 2014

MR. ANTONIO DIAS AND ANR., ... Appellants
Versus
MR. REMEDIOS MENINO DIAS AND 11
ORS., ... Respondents

Mr. Vledson Lucio Braganza, Advocate for the appellants.

Mr. R. Menezes, Advocate for the respondent nos.1 to 5 and 8.

Mr. Sagar Gurudas Dhargalkar, Additional Government Advocate for respondent nos.10 to 12.

Coram:- C. V. BHADANG, J.

Date:- 25th November, 2016

P.C.

The appellants are challenging the order dated 30/04/2013, passed by the Trial Court, by which the application for Temporary Injunction filed by the appellants, has been dismissed. The suit is filed challenging a Gift Deed, in which the application for Temporary Injunction was filed, seeking following reliefs :

"a) to grant a temporary injunction and restrain the defendant no.10, their agents, assigns, servants or anyone claiming through or under them from transferring the Liquor Licence No.RS/FCL/98 exclusively in the name of the defendant no.1 and to stay the proceedings pending before him which is fixed on 14/09/2012 in the office of the defendant no.10 till the disposal of this suit.

- b) to grant a temporary injunction and restrain the defendant nos.1, 2 and 3, their agents, assigns, servants or any one claiming through or under them from dispossessing the plaintiff no.1 from enjoying the suit property especially the said liquor Shop No.8 till the disposal of this suit.
- c) ex-parte relief in terms of prayer (a) and (b);
- d) any other relief."

2. The Trial Court has found that the dispute concerning the issue of licence is pending before the Excise Department and the said proceedings will have to be decided by the Competent Authority, constituted under the Act.

3. I have heard the learned Counsel for the parties and perused the record.

4. Indisputably, at this stage, the licence is standing in the name of appellant no.1. In so far as the second relief of injunction is concerned, prima facie it is not shown that at present the appellants are in possession of the suit shop. In such circumstances, in my considered view, the prayer clause (b) cannot be granted.

5. The learned Counsel for the parties point out that the suit, which is of the year 2012, is ripe for hearing (in which trial has commenced). In such circumstances, it would be appropriate if the

suit is decided expeditiously. No case for interference is made out. The appeal is dismissed. The Trial Court shall decide the suit as expeditiously as possible and preferably, within one year from the receipt of this order. Parties to co-operate for time-bound disposal of the suit. In the circumstances, there shall be no order as to costs.

C. V. BHADANG, J.

SMA