

IN THE HIGH COURT OF BOMBAY AT GOA

APPEAL FROM ORDER NO. 49 OF 2016

LATE. SMT. SHEELA MADHAVRAO
SARDESSAI (DEC) AND 5 ORS.

... Appellant

Versus

LATE. SMT. NALINI PREMNATH RAUT
(DEC), REP. BY SHRI. PRASAD P.
RAUT AND 242 ORS.

... Respondent

Mr. Ashwin D. Bhobe, Advocate for the Appellants.

Mr. Ryan Menezes, Advocate for Respondent Nos. 205 and 206.

Coram:- C. V. BHADANG, J.

Date:- 16th December, 2016

P.C:

The appellants are challenging the order dated 27.04.2016, by which the application (Exhibit-43/D) for temporary injunction, has been dismissed.

2. It is submitted on behalf of the appellants that the gift deed dated 09.09.1914 shows land registration no. 4468, which is surveyed under no. 134/0 of village Salem, forming part and parcel of the property better known as 'Vadacha Pacha', which is subject matter of dispute. It is submitted that thus, there is a prima facie case and the learned Trial Court was in error in dismissing the application.

3. On the contrary, it is submitted by the learned Counsel for the respondent nos. 205 and 206 that the construction is complete and as such, the learned Trial Court was justified in holding that the application has become infructuous. It is submitted that the respondents are bonafide purchasers for value as per the sale deed dated 13.06.2013 and are in possession of the property as owners thereof. The learned Counsel, on instructions, states that respondent nos. 205 and 206 have no intention to make any further construction. The statement is accepted.

4. In such circumstances, there is no justification to interfere with the impugned order. Thus, subject to the statement made on behalf of respondent nos. 205 and 206 as above, the appeal is disposed of. Needless to mention that the observations of the Trial Court shall not come in the way of the appellants, at the trial of the suit or any other proceedings.

In the circumstances, there shall be no order as to costs.

C. V. BHADANG, J.

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