

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 339 OF 2017

SUHASHINI ATMARAM SAWANT @
SUHASINI NAGUESH SHETGAONKAR AND
ANR.,

... Petitioners

Versus

JANKI NAGESH SHETGAONKAR AND 6
ORS.,

... Respondents

Mr. Rohit Bras De Sa, Advocate for the Petitioners.

Mr. Jagannath Jayant Mulgaonkar, Advocate for the
Respondents.

Coram:- C. V. BHADANG, J.

Date:- 20th September 2017

ORAL ORDER:

The learned Trial Court had granted injunction, restraining the respondents from carrying out the construction, on the ground that it was on a joint property and without the consent of the petitioners, who are the co-owners. In appeal, the learned District Judge has set aside the said order. Hence, this petition.

2. The learned Counsel for the petitioners pointed out that the construction carried out is without any license of the competent Authority. He therefore submits that the respondents are not entitled to grant of an Occupancy Certificate.

3. The learned Counsel for the respondents has submitted that the construction is already complete as has been observed by the learned District Judge. He therefore submits that the prayer for injunction has become infructuous.

4. On hearing the learned Counsel for the parties and on perusal of record, it appears that the construction is already complete as has been found by the learned District Judge. In such circumstances, the prayer for a prohibitory injunction would become infructuous.

5. Insofar as the claim that the respondents are not entitled to the grant of Occupancy Certificate is concerned, this was not the prayer made in the application for temporary injunction nor there was any specific ground raised before the learned Trial Court that the construction was being carried out in the absence of a construction license.

6. In such circumstances, the petition is disposed of as infructuous. It would be open to the petitioner to approach the competent Authority and/or to file an application before the Trial Court, seeking appropriate reliefs with regard to the Occupancy Certificate, if so advised. If such an application is filed, the competent Authority and/or the Trial Court shall consider the application on its own merits. Rival contentions of the parties

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

C. V. BHADANG, J.

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