

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 287 OF 2013

MR. JOSE ESTEVAM FERNANDES, AND 3
ORS., ... Petitioners
Versus
MR. FRANCISCO FERNANDES, AND ANR., ... Respondents

Mr. J. Vaz, Advocate for the petitioners.
Mr. D. Pangam, Advocate for the respondents.

Coram:- M. S. SONAK, J.

Date:- 3rd May, 2017

ORAL ORDER:-

The challenge in this petition is to the rejection of the interim relief by the learned Trial Court and the learned Appeal Court. This Court on 2.5.2013, while issuing Rule, had made an interim order in terms of prayer clause(b) except the portion bracketed in red. Further this Court, by an order dated 2.12.2013 modified the interim order dated 2.5.2013. Modification is reflected in paragraph 12 of the order dated 2.12.2013 which reads thus:-

"The order dated 2.5.2013 is modified to the extent that the applicants are permitted to complete the balance internal works i.e. of fitting of tiles, accessories of bathroom and toilets, final touch of the wall, electrical, plumbing and painting works, absolutely at their own risk, subject to the result of the main suit.

It is made clear that the applicants shall not carry out any other work than the work which is now permitted to be done."

2. From the aforesaid, it is quite clear that the interim order dated 2.5.2013(as modified) is in operation till date. The suit in which impugned orders were made was instituted in the year 2013. Mr. Vaz, learned Counsel for the petitioners/plaintiffs states that evidence in the suit has already commenced.

3. In the aforesaid circumstances, this petition can be disposed of by directing that the interim order dated 2.5.2013 as modified by order dated 2.12.2013, both made by this Court, shall continue to operate until disposal of the suit. It is ordered accordingly.

4. The learned Trial Judge is directed to dispose of the suit as on its own merits and in accordance with law. While disposing of the suit the learned Trial Judge may not be influenced by any observations made in the impugned order or the fact that some interim orders were made by this Court in these proceedings. The suit is required to be disposed of in accordance with law and on its own merits.

5. Writ Petition is disposed of in the aforesaid terms.

M. S. SONAK, J.