

IN THE HIGH COURT OF BOMBAY AT GOA

CIVIL APPLICATION NO. 193 OF 2016

IN

SECOND APPEAL NO. 101 OF 2016

MR. FRANCISCO PATRICIO RODRIGUES
AND 2 ORS.,

... Applicants

Versus

MR. ALEIXO CIPRIANO ALBUQUERQUE
AND 14 ORS.,

... Respondents

Mr. Sudin Usgaonkar, Senior Advocate with Ms. Vinita Palyekar, Advocate for the Applicants.
Mr. Devidas J. Pangam and Mr. Luis Fernandes, Advocates for the Respondent nos. 1 to 9.

Coram:- G. S. PATEL, J.

Date:- 8th August, 2017

P.C.

1. The Second Appeal has been admitted by an Order dated 25th November 2016. Prior to that, there were several orders till as late as 27th October 2016 continuing interim relief said to have been initially granted by the Trial Court and then continued by the First Appellate Court. I may only note that the Suit failed, as did the First Appeal.

2. The Civil Application seeks that the Respondents be restrained from interfering or obstructing the Applicants' access over the road in question. This is said to be a motorable road.

3. The Application is opposed by Respondent nos. 1 to 9. They point out that the Applicants have an alternative access and that the Applicants have a garage on the other side of the road. The alternative access abuts the main Ponda road. In paragraph 4, there is an apprehension expressed that in the guise of obtaining an interim relief, the Applicants are creating a nuisance and have obstructed the entrance to a chapel that exists along this road. The Applicants state that the Chapel is on another plot all together. Whether the Chapel is on the other plot or not is not relevant. The photographs annexed to the affidavit in reply, prima facie, shows at page 18 that the Applicants have parked a vehicle right in front of the door of the Chapel. It is not for the Applicants to say that when the Chapel should or should not be used. This order of interim access must be on the basis that the parties are preserved in status quo, and not such that the Applicants gain substantive rights over the road at all. The Applicants will be entitled to use the road as they used to do previously but with no additional benefits. They will not park their cars along this road since the reply indicates that there is alternative access available to the Applicants. In particular, they are not to park their vehicles in front of the door of the Chapel. It goes without saying that the Applicants will be entitled to park their vehicle in their garage (or even in front of it), but without blocking the road itself.

4. This Order is without prejudice to all the rival rights and contentions of the parties. All the contentions are expressly kept open until the final disposal of the Appeal.

G. S. PATEL, J.

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