

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 352 OF 2017

SHRI. SURENDRA A. SHIRODKAR AND
ANR.,

... Petitioners

Versus

MR. ANAND @ ANANT VISHNU
DHARGALKAR @ ANANT VISHNU KAMAT
AND 14 ORS.,

... Respondents

Mr. S. Walwaiker and Ms. Sukant Halankar, Advocates for the
Petitioners.

Coram:- F. M. REIS, J.

Date:- 7th April, 2017

ORAL ORDER

Heard Mr. Walwaiker, learned Counsel appearing for the
Petitioners.

2. The above Petition takes exception to an Order passed by the
Lower Appellate Court dated 29.08.2016, whereby the Order of
temporary injunction granted by the learned Trial Judge was
quashed and set aside and the Appeal preferred by the
Respondents came to be allowed.

3. Mr. Walwaiker, learned Counsel appearing for the
Petitioners, has vehemently brought to my notice that the Lower
Appellate Court has failed to examine the issues involved in the
Suit whilst disposing of the Appeal and, as such, would call for

interference of this Court in the present Writ Petition. Learned Counsel has also pointed out that the discretionary orders passed by the learned Trial Judge has been erroneously interfered by the Lower Appellate Court without considering the matter in controversy in a proper prospective. Learned Counsel further submits that the Suit filed by the Petitioners is for specific performance of an Agreement executed way back on 25.03.1995 and, as such, according to him, grave injustice would occasion to the Petitioners in case the status quo is not maintained in the subject property. Learned Counsel further submits that the impugned Order be quashed and set aside.

4. I have considered the submissions of the learned Counsel. With the assistance of the learned Counsel, I have also gone through the record. The Agreement for Sale relied upon by the Petitioners is dated 25.03.1995. The Suit was filed in the year 2010. The Agreement contemplates that the Sale Deed had to be executed within five months from the date of the Agreement. Though Mr. Walwaikar, learned Counsel pointed out that the Petitioners were always ready and willing to perform their part of the contract and, according to him, time to execute the Agreement was extended mutually between the parties as there was a pending litigation, I find that these aspects would have to be examined on its own merits during the course of the trial of the Suit.

5. Mr. Walwaiker, learned Counsel appearing for the Petitioners, also brought to my notice that the activity carried out by Respondent no. 4 is without obtaining a requisite permission from the statutory authorities. These are aspects which can be raised before the authorities constituted under the relevant acts independently on its own merits in accordance with law.

6. Considering the nature of the said dispute and the contentions raised by the learned Counsel appearing for the Petitioners, I find it appropriate to dispose of the above Writ Petition by directing the learned Civil Judge, Junior Division to dispose of the Regular Civil Suit no. 61 of 2010 as expeditiously as possible and preferably within six months from the date of receipt of this Order.

7. Writ Petition stands disposed of accordingly.

F. M. REIS, J.

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