

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO.122 of 2018**

1. Mrs. Ana Elsia Pereira E.
Mascarenhas and another .. Petitioner

Vs.

1. Mr. Lavu Anand Goltekar
(deceased) and 3 others .. Respondents.

Shri Cedric Lobo, Power of Attorney holder of the petitioners in person.

Shri Sarvesh Kalangutkar, Advocate for the respondent no.1(a), 1(aa), 1 (b), 1(bb) and 2.

CORAM :- C. V. BHADANG, J.

Date : 4th July, 2018

ORAL ORDER :

The challenge in this petition is to the judgment and order dated 16/01/2016, passed by the learned Senior Civil Judge, Mapusa, which has been confirmed by the learned District Judge on 28/11/2017 in Misc. Civil Appeal No.25/2016.

2. The suit filed by the petitioners being RCS No.103/2010/C against the respondents, is pending before the learned Senior Civil Judge at Mapusa. The petitioners had filed an application for temporary injunction restraining the respondents defendants from carrying out any further construction of whatsoever nature in the suit property, as well as from altering

the status-quo of the said property in any manner whatsoever. The learned Trial Court, by an order dated 16/01/2016, had partly allowed the application, restraining the respondent nos.1 and 2 from selling the suit property to any third person till the disposal of the suit. The petitioners challenged the same before the learned District Judge in MCA No.25/2016, which has been dismissed on 28/11/2017.

3. Shri Lobo, the power of attorney holder of the petitioners, who appears in person, made a solitary submission. He submitted that there is possibility of the respondent nos.1 and 2 effecting further construction in the property, which would be illegal and against the interest of the petitioners in as much as the petitioners claim to be the co-owners of the property along with the respondent nos.3 and 4.

4. The learned Counsel for the LRs of respondent no.1 and respondent no.2 submits that the said respondents have no intention of carrying out any further construction in the property.

5. In any event, if at all the said respondents intend to make any construction, they will have to obtain necessary permission of the Village Panchayat and the construction cannot

be effected without any such permission. Having regard to a specific statement on behalf of the said respondents, which would take care of the apprehension of the petitioner, no case for interference is made out. The order so far as restraining the respondent nos.1 and 2 from creating any third party interest or selling the suit property to any third person is already there in operation. In the circumstances, the Writ Petition is disposed of, with no order as to costs.

C. V. BHADANG, J.

SMA