

IN THE HIGH COURT OF BOMBAY AT GOA**APPEAL FROM ORDER NO. 44 OF 2012**

Mr. Pedro Caetano Andre Fernandes,
S/o late Sebastiao,
Age 46 years, married,
Businessman, Indian National,
R/o 3/G-4, Ashokvan Co-operative
Housing Society Limited,
Ambaji, Fatorda, Gao.

.... Appellant
(Orig Plaintiff)

V e r s u s

1. Miss Marry Bertha Gracias,
age 54 years, Spinster,
d/o late Sebastiao Gracias,
Government service, r/o.
H. No.683, Uddi,
Goa Velha, Goa.
2. Mrs. Leena Serafina Gracias e Ribeiro,
age 55 years, Indian National,
d/o. Late Sebastiao Gracias,
r/o. H. No.660, Khailem Bhat,
Cujira, Santa Cruz, Ilhas Goa.
3. Mr. Augusto Ribeiro,
age 55 years, service,
Indian National,
r/o. H. No.660, Khailem Bhat,
Cujira, Santa Cruz, Ilhas Goa.

..... Respondents
(Orig. Defendants)

Mr. Anthony D'Silva, Advocate for the Appellant.

Mr M. D. Costa, Senior Advocate with Adv. Ms. K. Betquecar for the Respondents.

Coram:- C. V. BHADANG, J.

Date:- 5th September 2018.

Oral Judgment:

The appellant/original plaintiff is challenging the order dated 24/11/2011 passed by the learned trial court in Special Civil Suit no.18/2011 dismissing the application for temporary injunction (Exhibit 4) filed by the appellant. The appellant had sought an injunction restraining the respondents/defendants, from alienating or creating third party interest in the suit property. The record discloses that on 7/2/2013 this Court while admitting the present appeal, had restrained the respondents from creating third party rights in respect of the suit property, which order is operating till today. The suit which is of the year 2011 is stated to be part heard.

2. Shri D'Costa, the learned Senior Counsel for the respondents in all fairness submitted that at present the respondents have no intention of creating any third party rights or interest in the suit property and in the event the respondents intend to alienate or create third party interest in the suit, the same shall be subject to prior intimation being given to the trial court. In view of the specific statement made on behalf of the respondents, the interest of the appellant is safeguarded. In that view of the matter, the appeal is disposed off subject to the statement made on behalf of the respondents that

they shall give a prior intimation of their intention to alienate or create third party interest to the trial court. If such an intimation is given it would be open to the appellant to seek appropriate relief from the trial court. Subject to this, the appeal is disposed off with no order as to costs. Needless to mention that the interim order stands vacated.

C. V. BHADANG, J.

ap/-