

IN THE HIGH COURT OF BOMBAY AT GOA**APPEAL FROM ORDER NO.41 OF 2016**

Shri Gautam Ramanbhai Patel,
son of Ramanbai Patel,
aged 56 years, businessman.
Indian National, Residing at “Abhijit”,
Plot No. B-9, N. S. Road,
Kapole Co-op. Housing Society Ltd.,
J.V.P.D. Scheme, Juhu, Mumbai 400 049.

.... Applicant.

V e r s u s

1. Shri Pratapsinha Wamanrao Rane Sardessai,
Son of late Wamanrao Rane Sardessai,
Aged 62 years, residing at House No.872/47,
Vijay Nagar, Alto Utorda, Porvorim,
Bardez-Goa and 9 others.

..... Respondents

Shri R. G. Ramani, Advocate for the Appellant.

Shri S. D.Lotlikar, Senior Advocate with Advocate Ms. A. Araujo for the
Respondent no.1 and 2 .

Mr. Nicholas D'Souza, respondent no.10(v) present in person.

CORAM: C. V. BHADANG, J.

DATE: 29th October, 2018.

Oral Order:

Heard Shri Ramani, the learned counsel for the appellant and Shri
Lotlikar, the learned Senior Counsel for the respondents no.1 and 2.

2. I have also heard the respondent no.10 (v), who is one of the legal representatives of the deceased respondent no.10, in person.

3. Admittedly the suit is of the year 2008 in which an application for injunction was filed in the year 2012 for restraining the respondents/defendants from creating any third party interest in the suit property. That application was dismissed in the year 2016. The learned trial court had refused to grant the injunction mainly on two grounds. Firstly, that the appellants/plaintiffs, have not established any reasonable apprehension that the respondents are in an attempt to create third party interest and secondly that no similar relief is sought by way of permanent injunction in the plaint and the temporary injunction can only be in the aid of the final relief.

4. During the course of the arguments at bar, Shri Lotlikar, the learned Senior Counsel for the respondent nos.1 and 2 in all fairness states that at present the respondents have no intention of creating any third party interest in the property. It is submitted that in the event the respondents have an intention of creating any third party interest, the same shall be intimated to the Court. If such an intimation is given, the appellant would be at liberty to take recourse to filing such application as may be permissible in law. If such

an application is filed, the learned trial court shall decide the same in accordance with law and without being influenced by the observations made in impugned order. Before parting with the final order, it is necessary to state that the suit is old relating to the year 2008 and in such circumstances, the trial court shall proceed to hear the suit as expeditiously as possible. In the circumstances, there shall be no order as to costs.

C. V. BHADANG, J.

Ap/