

IN THE HIGH COURT OF BOMBAY AT GOA**APPEAL FROM ORDER NO. 26 OF 2018
WITH
APPEAL FROM ORDER NO. 27 OF 2018****APPEAL FROM ORDER NO. 26 OF 2018**

Mr. Clive Mark Braganza,
41 years of age,
August Felizardo Francisco Braganza,
Resident of H. No.392,
Casa Babu, Ximer,
Arpora Bardez-Goa.

.... Appellant

V e r s u s

1. Ms. Charmaine Leila Braganza,
Major of age,
Resident of H. No.392,
Casa Babu, Ximer,
Arpora, Bardez-Goa.
2. Mrs. Especiosa Preciosa Balista
D'Souza e Braganza alias Precy
Braganza,
Major of age,
H. No. 392, Casa Babu,
Ximer, Arpora, Bardez, Goa.
3. M/s. Cassandra Amanda Braganza,
Major of age,
H. No. 392, Casa Babu,
Ximer, Arpora, Bardez, Goa.

.... Respondents.

Adv. Ashwin D. Bhobe for the Appellant.
Adv. J. P. Mulgaonkar for Respondent no.1.

APPEAL FROM ORDER NO. 27 OF 2018

- 1) Mrs. Especiosa Preciosa Balista
D'Souza e Braganza alias Precy
Braganza,
Major of age,
H. No. 392, Casa Babu,
Ximer, Arpora, Bardez, Goa. Appellant.

V e r s u s

1. Ms. Charmaine Leila Braganza,
Major of age,
Resident of H. No.392,
Casa Babu, Ximer,
Arpora, Bardez-Goa.
- 2) Mr. Clive Mark Braganza,
41 years of age,
August Felizardo Francisco Braganza,
Resident of H. No.392,
Casa Babu, Ximer,
Arpora Bardez-Goa.
3. M/s. Cassandra Amanda Braganza,
Major of age,
H. No. 392, Casa Babu,
Ximer, Arpora, Bardez, Goa. Respondents.

Adv. Pavithran A.V. For the Appellant.
Adv. J. P. Mulgaonkar for the Respondent no.1.

Coram:- C. V. BHADANG, J.
Date:- 28th August 2018.

Oral Order:

Both these appeals arise out of the order dated 15/2/2018 passed by

the learned Senior Civil Judge at Mapusa in Special Civil Suit No.64/2016/A.
As such they are being disposed off by this common order.

2. The appellants in these appeals are the original defendants nos.1 and 2 in a suit filed by the respondent no.1. The respondent no.3 in both these appeals is the original defendant no.3. The respondent no.1 has filed the aforesaid suit challenging the order passed in the Inventory proceedings, in which the respondent no.1 has sought an injunction restraining the appellant and the original defendant no.1 from creating any third party interest in the suit property described in para 1 (i) to (xiv) of the plaint and the business which is better known as "Saturday Night Market".

3. The learned trial court had granted the application for temporary injunction by the impugned order dated 15/2/2018 in the following terms:

a) The defendant nos. 1 and 2 and their agents, representatives or any other person/s acting through them, are hereby restrained by an order of temporary injunction from creating third party rights of any nature in the suit properties identified under paras nos.1 (i) to (xiv) of the plaint or the said family business which is situated around the residential house of the plaintiff and the defendants and which business is now known as "Saturday Night Market" or from selling or alienating the suit properties or the said family business or the said

family business or from mortgaging the suit properties or the said family business with any banks or financial institutions or any other persons/s or institutions or from creating any encumbrance of any nature in the suit properties or the said family business till the disposal of the suit on merits.

b) The defendant nos.1 and 2 their agents, representatives or any other person/s acting through them, are hereby restrained by an order of temporary injunction from forcefully evicting the plaintiff from the residential house where she resides along with the defendants.

4. Shri Bhobe, the learned counsel for the appellant in Appeal From Order No.26/2018 and Shri Pavithran, the learned counsel for the appellant in Appeal From Order No.27/2018 in all fairness submitted that the appellants are not disputing para (b) of the order as aforesaid. Even so far as the injunction granted in para (a) of the impugned order is concerned, it is contended that there is no injunction granted by the trial court restraining the appellant from conducting the business "Saturday Night Market". It is, however, contended that the respondent no.1 taking advantage of the impugned order is approaching the various authorities objecting to the grant of the licence/permission to the appellant to conduct the said business.

5. On the contrary, it is submitted by Shri Mulgaonkar, the learned

counsel for the respondent no.1 that the appellant has not produced any document at this stage to show that the respondent no.1 has objected before any authority for grant of the licence/permission to the appellant to conduct the family business of "Saturday Night Market".

6. On hearing the learned counsel for the parties and on perusal of the record, I do find that the trial court by the impugned has not restrained the appellant from conducting the business as "Saturday Night Market". The impugned order cannot be read to mean that the appellant has been restrained from carrying out the said business, as aforesaid. In view of the fact that the impugned order does not come in the way of the appellant from carrying out the "Saturday Night Market" business, no interference is called for. The appeal is disposed off with no order as to costs. Rival contentions of the parties are left open.

C. V. BHADANG, J.

ap/-