

IN THE HIGH COURT OF BOMBAY AT GOA
WRIT PETITION NO. 944 OF 2018

PLANET HOLLYWOOD, REP. BY ITS AUT.
REP., MR. ANAND GOPAL CHATERJEE ... PETITIONER

Versus

VANKY THERENS COLACO & 6 ORS. ... RESPONDENTS

Shri Shivan Desai, Advocate for the Petitioner.

Shri John Abreu Lobo, Advocate for the Respondent No. 1.

Shri Galileo Teles, Advocate for the Respondent Nos. 2 to 7.

CORAM : C.V. BHADANG, J.

Date : 21st November, 2018

ORAL ORDER:

Heard Shri Desai, the learned Counsel for the petitioner, Shri Lobo, the learned Counsel for the respondent no. 1 and Shri Teles, the learned Counsel for the respondent nos. 2 to 7, for some time. Perused record.

2. On hearing the learned Counsel for the parties, I do not find that any case for interference is made out.

3. The respondent no. 1 has filed a suit, in which, he sought an order of temporary injunction, in the following terms:

- a) That by Order of Temporary Injunction, the Defendants, their agents, servants, their successors, assigns and/or any other person acting on their behalf be temporarily restrained from interfering in whatsoever nature in the business of the plaintiff of plying his guests/tourists from outside as well as inside the premises of Hotel Planet Hollywood.
- b) Ad-Interim reliefs in terms of prayer (b) above be granted ex parte.
- c) Costs of the suit be allowed.
- d) For other and further orders be passed as deemed fit and proper.

4. The learned Trial Court rejected the application, which was challenged by the respondent no. 1 in appeal. The learned District Judge by a judgment and order dated 21.07.2018 has allowed the appeal. The operative order passed by the learned District Judge reads thus:

- a) The appeal is allowed with costs.
- b) Consequently, the impugned Order dated 23.11.2017 passed by the Ld. Civil Judge Junior Division, 'F' Court, Margao in Regular Civil Suit No. 100/2017/F is quashed and set aside.
- c) The application for temporary injunction filed by the appellant is granted. The respondents, their agents, servants and/or any other person acting on their behalf are restrained from interfering with the business/trade of the appellant of plying his tourist vehicle to and fro outside/up to the compound gate of the premises of the respondent no. 1 until the disposal of the suit.

5. Shri Desai, the learned Counsel for the petitioner (original defendant no. 1), in all fairness, does not dispute that the petitioner is not concerned or affected by the respondent no. 1 operating the taxi from outside the premises or upto the compound gate of the premises of the petitioner. The learned District Judge has found that insofar as the operation of the taxi, by the respondent no. 1 from outside the premises or upto the compound gate of the premises of the petitioner, being the fundamental right, cannot be affected.

6. Shri Teles, the learned Counsel for the respondent nos. 2 to 7 submits that the NOC granted by the Transport Department to the respondent no. 1 to operate from a particular point, outside the hotel premises of the petitioner, has been revoked. Be that as it may, the respondent nos. 2 to 7 have not sought any injunction against the respondent no. 1 for operating from a particular point, outside the hotel premises of the petitioner. Thus, the consideration has only to be restricted to temporary injunction, as has been sought and granted to the respondent no. 1. On a careful perusal of the impugned judgment, I do not find that it suffers from any infirmity so as to require interference.

7. In the result, the petition is dismissed, with no order as to costs.

Needless to mention that the impugned order cannot be read to mean that there is any obligation on the petitioner to provide any business to the respondent no. 1.

C.V. BHADANG, J.

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