

IN THE HIGH COURT OF BOMBAY AT GOA
WRIT PETITION NO. 957 OF 2017

ANIL PRABHAKAR NAIK ... PETITIONER

Versus

SADGURU R. PEDNEKAR & 2 ORS. ... RESPONDENTS

Mr. Rama Gajanan Rivankar, Advocate for the Petitioner.

Mr. Amay Arjun Phadte, Advocate for the Respondents.

CORAM:- C.V. BHADANG, J.

DATE:- 16th MARCH 2018.

ORAL ORDER:

On hearing the learned Counsel for the parties, I find that the petition can be disposed of on a short count.

2. The petitioner/plaintiff claims to be the owner of the land Survey No. 116/35 of village Morjim, in which, he is having a residential house. There is a tar road which passes in an oblique manner on the north-western side of the said land. According to the petitioner, the respondents were allowed to occupy a residential structure, which is towards the northern side of the house of the petitioner. It is the material case that the respondents have illegally encroached on the access and are

trying to construct a temporary shed/garage into a permanent structure.

3. The petitioner filed a suit for eviction and permanent/mandatory injunction, in which, application for temporary injunction was filed, seeking injunction, restraining the respondents or anybody on his behalf, from carrying out any construction and also from converting the temporary structure into a permanent one and for demolition of the illegal construction.

4. The learned Trial Court as well as the learned Appellate Court has held that no case for grant of the injunction is made out.

5. It transpires during the course of the arguments, that the petitioner has sought to produce a sketch before the Trial Court, a copy of which is furnished today, which is taken on record and marked 'X' for identification. The petitioner has also filed an application for amendment of the plaint. Both these applications are pending before the Trial Court. Be that as it may, *prima facie*, at this stage, even going by the sketch ('X'), it appears that the access of the petitioner cannot be said to be

obstructed.

6. The learned Counsel for the respondents submits that insofar as the conversion of the temporary shed into a permanent one is concerned, the respondents will have to obtain a license from the local authority and shall seek permission from the Trial Court, in the event, they want to make any permanent construction. The said statement is accepted. Subject to this, no case for interference is made out.

The petition is accordingly disposed of, with no order as to costs. Needless to mention that the learned Trial Court shall decide the application for production of the sketch and the application for amendment on its own merits.

C.V. BHADANG, J.

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