

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 295 OF 2019

GUNBARAO RANE (DEC) AND 3 ORS., ... Petitioners

Versus

SANJAY RANE AND 2 ORS., ... Respondents

Mr. Ashwin D. Bhobe and Ms. Annelise Fernandes, Advocates
for the Petitioners.

Mr. Ashwin Ramani, Advocate for the Respondents.

Coram:- C. V. BHADANG, J.

Date:- 3rd October, 2019

ORAL ORDER

Heard for sometime.

2. The challenge in this petition at the instance of the appellants-original defendants, is to the following three orders :

(i) The order dated 16.08.2018, granting an application, (exhibit 7), for amendment of the plaint, at the appellate stage;

(ii) The order dated 16.08.2018, granting application, (exhibit 8), permitting production of documents by the respondents (the appellants before the Appellate Court) under Order XLI Rule 27 of the Civil Procedure Code; and

(iii) The order dated 21.11.2018, granting an application (exhibit 18) for temporary injunction, thereby restraining the petitioners or anybody on their behalf from doing any "illegal construction" including construction of a concrete wall from points 'A' to 'A' in the sketch annexed to the plaint, during the pendency of the appeal.

3. It transpired during the course of the hearing that the main appeal is ripe for hearing. The learned Counsel for the parties therefore submitted that the hearing of the appeal itself can be expedited. The learned Counsel for the parties submitted that this petition can be therefore disposed off by consent, without this Court recording detailed reasons.

4. In the result, the petition is disposed off in the following terms, by consent of parties :

ORDER

(i) The petitioners give up their challenge to the order dated 16.08.2018 granting an application, (exhibit 7), for amendment of the plaint at the appellate stage.

(ii) The order dated 16.08.2018 permitting production of documents at the appellate stage, is hereby set aside.

(iii) The learned Appellate Court shall consider the application, (exhibit 8), at the stage of hearing of the appeal in consonance with the law laid down by the Hon'ble Supreme Court in the case of UNION OF INDIA VS. IBRAHIM UDDIN, (2012) 8 SCC 148.

(iv) The respondents shall not claim any benefit of the order of injunction dated 21.11.2018 and shall not prosecute the application for contempt and shall not press the same.

(v) The Appellate Court shall decide the appeal as expeditiously as possible and preferably within a period of three months from the receipt hereof.

(vi) The rival contentions of the parties on merits are left open.

(vii) In the circumstances, there shall be no order as to costs.

C. V. BHADANG, J.

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