

IN THE HIGH COURT OF BOMBAY AT GOA
WRIT PETITION NO. 411 OF 2019

Manuel Victor Dias

... Petitioner

V e r s u s

Jose Menino Fernandes & 5 Ors.

... Respondents

Mr. Tanmai Gawas, Advocate for the Petitioner.

Mr. C. Fonseca, Advocate for the Respondents.

Coram :- C. V. BHADANG, J.

Date : 16th July, 2019

ORAL ORDER

1. Heard the learned Counsel for the parties for sometime.
2. The petitioner is the original plaintiff who had obtained an order of temporary injunction against the respondents. The respondents preferred an appeal before the learned District Judge in MCA No.24/2019 which has been partly allowed on 11.04.2019 in the following terms :

"The Miscellaneous Civil Application is partly allowed with no order as to costs.

The impugned order dated 20.03.2019 is partly set aside and modified to the following extent. The appellant nos.1 and 2 are allowed to plaster their reconstruction with cement and to keep dead wall

towards the direction of common wall and not to interfere with the common wall or portion of the house of respondent no.1/plaintiff and not to do any further construction apart from plastering with cement towards common wall and fixing windows to other walls, if required.

The appellants are also restrained from creating any third party rights to the suit portion.

The appellants after getting necessary permission from the necessary authorities may occupy the said reconstructed portion."

3. Feeling aggrieved, the petitioner is before this Court.
4. The only contention raised by the learned Counsel for the petitioner is that the respondents should not carry out any further construction apart from plastering the structure which is already erected and they should move for regularisation before the competent authority.
5. A bare perusal of the operative order passed by the Appellate court shows that the respondents have only been permitted to carry out plastering and have been restrained from carrying out any further construction. The respondents have also been restrained from creating any third party rights

and the respondents can occupy the suit structure only after obtaining the necessary permission from the competent authority.

6. Considering the nature of order passed, the interest of the petitioner is fully secured. Needless to mention, that except plastering the structure, the respondents shall not carry out any further construction nor shall occupy the said suit structure without obtaining the permission from the competent authority.

7. The petition is disposed off in the aforesaid terms with no order as to costs.

C. V. BHADANG, J.

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