

IN THE HIGH COURT OF BOMBAY AT GOA

APPEAL FROM ORDER NO. 34 OF 2018

RESHMA GANPAT CHARI AND ANR., ... Appellants

Versus

**THE CHIEF SECRETARY, GOVT. OF GOA
AND 28 ORS.,** ... Respondents

Adv. Shirin V. Naik for the Appellants.

Ms. P. Kamat, Addl. Government Advocate for the Respondent
nos.1, 2, 3 and 4.

Adv. Umesh Nagesh Palkar for the Respondent nos.8 to 29.

Coram:- C. V. BHADANG, J.

Date:- 4th February 2019

Oral Order:

Heard the learned counsel for the parties.

2. By this appeal, the appellants (original plaintiffs) are challenging the order dated 16/7/2018 passed by the trial court rejecting the application for temporary injunction filed by the appellants. The appellants had sought injunction against the respondent nos. 5 to 11 (defendant nos. 5 to 11) restraining them from cutting or destroying the trees standing in the suit property. The learned counsel for the appellants during the course of the arguments submitted that there are thirteen trees, out of which

five have already been cut.

3. The suit property happens to be land survey no.4/3 better known as "Ghar Bhat" situated at Madhlawada of village Savoi Verem, Ponda Taluka. In the revenue record, the names of the appellants do not figure as occupants. Admittedly, the name of the appellant is shown in the Other Rights Column as a mundkar. The record further discloses that the Forest Department had granted permission on 8/6/2017 to the contesting respondents to cut the trees. The said order has not been challenged by the appellants and has attained finality. The learned counsel for the appellant submits that the name of their ancestors i.e. the grand father is recorded in the inscription and description of the said property. However, the plaint is conspicuously silent about any pleading based on any such entry of inscription or description. The learned counsel for the appellant has placed reliance on the decision of this Court in Second Appeal No.11 of 1994 decided on 9/2/1998 (Silvestre Mascarenhas and others Vs. Smt. Shantu Locmu Fotto and others), in order to submit that the entries about inscription and description would override the revenue record. Even assuming it to be so, in the absence of any pleading, at this stage about the inscription and description entries, I do not find that the decision can come to the aid of the appellants. I have gone through the impugned order and I do not find that it suffers from any infirmity. In the result the appeal is dismissed with no

order as to costs.

C. V. BHADANG, J.

ap/-