

IN THE HIGH COURT OF BOMBAY AT GOA

APPEAL FROM ORDER NO. 18 OF 2013

**HARBINDAR SINGH BEDI THROUGH POA
MAURICE BRITTO**

... Appellant

Versus

SAIFULLA KHAN AND ORS.,

... Respondents

Mr. Nitin Sardesai, Senior Advocate with Mr. S. Sardesai,
Advocate for the Appellant.

Mr. J. Coelho Pereira, Senior Advocate with Mr. V. Braganza,
Advocate for the Respondent Nos. 1, 2(a) to 2(1) and 3 to 17.

Coram:- C. V. BHADANG, J.

Date:- 4th March 2019

ORAL ORDER:

This appeal can be disposed of on a short count.

2. The appellant, who is the defendant no. 40 in the suit, is challenging the order dated 05.10.2012, passed by the learned Trial Court, thereby restraining the appellant from alienating, transferring or encumbering and/or creating third party rights in the suit property and/or causing damage to it, during the pendency of the suit.

3. Mr. Sardesai, the learned Senior Counsel for the appellant, on instructions, states that the appellant has no intention to create any third party rights in the suit property and therefore, there is

no challenge to that part of the order restraining the appellant from transferring or encumbering and/or creating third party rights in the suit property. The only contention raised is that the appellant had undertaken the construction of a compound wall, in order to secure the property and 85% of the construction of the compound wall is complete and a part of the compound wall remains to be constructed. He submits that the appellant was under the bonafide belief that the impugned order may well be interpreted to mean that even the construction of the compound wall is not permitted. He, therefore, seeks a clarification that the impugned order, will not come in the way of construction of the compound wall, subject to the appellant holding/obtaining/renewal of the permission/licence.

4. On hearing the learned Counsel for the parties, it is clarified that the impugned order will not come in the way of the appellant from completing the remaining part of the compound wall, subject to the appellant holding proper construction licence for the same. Subject to this, the appeal is hereby disposed of, with no order as to costs. Needless to mention that the appellant shall not claim any equity on the basis of this order.

C. V. BHADANG, J.