

IN THE HIGH COURT OF BOMBAY AT GOA

CIVIL APPLICATION NO. 196 OF 2018

IN

SECOND APPEAL NO. 86 OF 2018

AGNELO D'COSTA AND ANR.,

... Applicants

Versus

FABRICA DA IGREJA DE ORLIM, REP.
BY ITS MANAGING EXECUTIVE
COMMITTEE AND ANR.,

... Respondents

Mr. Preetam Talaulikar, Advocate for the Applicants.
Ms. Maria Correia, Advocate for the Respondent no.1.
Ms. Kajol Magueshkar, Advocate for the Respondent no.2.

Coram:- C. V. BHADANG, J.

Date:- 14th March 2019

P.C.

This is an application for stay of the impugned judgment and decree dated 21.09.2016 passed by the learned Adhoc District Judge at Margao in Regular Civil Appeal No.149/2012.

2. By the impugned judgment and decree, the First Appellate Court has dismissed the appeal filed by the appellants thereby confirming the dismissal of the suit filed by the appellants for specific performance. Thus, in fact, there is no effective decree which can be stayed and, therefore, the prayer clause (a) is incompetent.

3. In prayer clause (b), the applicants prayed for restraining the respondents from creating any third party rights or alienating the suit property to a third party. Indisputably, the applicant was not secured with any such order either during the course of the trial or in the first appeal.

4. For these reasons, I do not find that any such relief can be granted in a Second Appeal. However, transfer of the suit property, if any, made by the respondents shall be subject to the *lis pendens* under Section 52 of the Transfer of Property Act.

5. Civil Application stands disposed off.

C. V. BHADANG, J.

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