

IN THE HIGH COURT OF BOMBAY AT GOA**APPEAL FROM ORDER NO. 39 OF 2018****MADHUKAR PANDURANG SAWANT AND
ANR.,****.... Appellants****Versus****STATE OF GOA, THR. CHIEF SECRETARY
AND 5 ORS.,****.... Respondents**

Mr. Vasudev Shirodkar, Advocate for the Appellants.

Ms. Priyanka Kamat, Addl. Government Advocate for Respondent nos.1 to 3.

Coram:- C. V. BHADANG, J.

Date:- 25th January 2019.

Oral Order:

Heard the learned counsel for the appellants and the learned Additional Government Advocate for the respondent nos. 1 to 3.

2. The appellants, the original plaintiffs are challenging the order dated 10/3/2017 (below Exhibit 47) in Civil Suit no.22/2013 passed by the learned Trial court, thereby dismissing the said application for interim relief filed by the applicants. The dispute appears to be about a vessel. By virtue of the application Exhibit 47, the appellants had prayed for the following reliefs :

a) Defendant nos.4 and 5 be directed to handover suit vessel to the plaintiff which is claimed to be “Rameshwar”.

b) That pending the disposal of this application the suit vessel be kept with the fisheries department as a stop gap arrangement.

c) In the alternative the defendant nos.4 and 5 jointly or severally be directed to deposit Rs.1,00,000/- per month for usurping the suit vessel.

3. The learned District Judge has found that the vessel is not properly identified. In the prayer clause as set out above, the appellant has referred to the vessel named as “Rameshwar”. The learned District Judge has found that the defendant no.5 is the lawful owner in possession and enjoyment of the vessel, which is named as “Sangharsh”. At one stage the learned counsel for the appellant during the course of the arguments at bar submitted that “Sangharsh” is the vessel which is subject matter of dispute. The learned counsel for the appellants pointed out that on the basis of VCR (at page 27 of the compilation) that the vessel is named “ Vishnu Laxmi”. The plaint is conspicuously silent about the name of the vessel either as “Rameshwar” or “Sangharsh” or Vishnu Laxmi. Thus the learned District Judge is right in holding that the identity of the vessel is not established. Further more in so far as the vessel “Sangharsh” is concerned, the learned District Judge has found that there is a sale deed dated 22/10/2012 in favour of the defendant no.5. The registration of the vehicle also stands in the name of the defendant

no.5. It is undisputed that the appellant's claim is based on an agreement for sale dated 5/5/2008. A specific inquiry was made to the learned counsel for the appellant as to whether there is any sale deed of the suit vessel in favour of the appellant, to which the answer was in the negative. Thus considering the overall circumstances, I do not find that the impugned order suffers from any infirmity so as to require interference.

4. The appellant has filed Misc. Civil Application no.1043/2018 for production of additional documents which comprises of an application dated 15/10/2018 filed by the appellant no.1 to the Director of Fisheries under the Right to Information Act and the reply dated 8/11/2018 by the Deputy Director of Fisheries/ Public Information Officer. A bare perusal of the reply shows the queries at serial nos.1 to 6 have been answered as either general and vague or the information not being available. It is difficult to see as to how the said documents can advance the case of the appellant.

5. The appeal is without merit and is hereby dismissed with no order as to costs. The Civil Misc. Application no.1043/2018 is accordingly disposed off.

C. V. BHADANG, J.

Ap/-