

IN THE HIGH COURT OF BOMBAY AT GOA

APPEAL FROM ORDER NO.26 of 2017

Mrs. Jayashri N. Rajesbhosale alias
Bimabai Rauji Rane Sardessai,
Wife of Shri Nansaheb R. Rajebhosle,
75 years of age, married, housewife,
Residing at Krashikesh, Plot No.114,
PDA Colony, Alto Porvorim,
Bardez Goa 403521.
Represented by her duly constituted Attorney
Shri Bhupendrasingh Nanasahed Rajebhosale,
41 years of age,
Residing at Krashikesh, Plot No.114,
PDA Colony, Alto Porvorim,
Bardez Goa 403521.
Constituted vide Power of Attorney dated
18/01/2011.
Executed before Notary
Gajanana Dhumatkar.

...Appellant.

Versus

- 1). State of Goa,
Through the Chief Secretary,
Secretariat, Porvorim,
Bardez-Goa.
- 2) Chief Executive Officer,
North Goa Zilla Panchayat,
Junta House,
Panaji-Goa.

- 3) Shri Shashikant Narayan Gaonkar,
Major of age, Indian National,
r/o Ghadi wado, Maulinguem,
Bicholim-Goa.
- 4) Shri Appa Harishchandra Gaonkar
(Since deceased through legal heirs)
 - (a) Smt. Radhika Appa Gaonkar,
wife of late Appa Harischandra
Gaonkar, major of age,
r/o H.No.229, Paltawado,
Maulinguem (N), Bicholim Goa.
 - (b) Shri Satish Appa Gaonkar,
son of late Appa Harischandra
Gaonkar, major of age,
r/o H.No.229, Paltawado,
Maulinguem (N), Bicholim
Goa.son of
 - (c) Shri Abhijit Appa Gaonkar,
son of late Appa Harischandra
Gaonkar, major of age,
r/o H.No.229, Paltawado,
Maulinguem (N), Bicholim Goa.
- 5) Shri Rama Appa Gaonkar,
major of age, Indian National,
r/o.H.No.72, Karapur, Cothiwado,
Sanquelim-Goa.
- 6) Shri Shyam S. Gaonkar,
major of age, Indian National.
r/o. H.No.72, Karapur, Cothiwado,
Sanquelim-Goa.

7) Shri Laximan Dattaram Gaonkar,
major of age, Indian National,
r/o Gadi wado, Maulinguem,
Bicholim-Goa.

8) Shri Yashwant Govind Gaonkar,
major of age, Indian National,
r/o Ghadi wado, Maulinguem,
Bicholim-Goa.

... Respondents.

Mr. Ashwin D. Bhobe with Mr. Chirag Angle, Advocates for the Appellant.

Mr. Vishwadh Sardessai, Additional Government Advocate for the Respondent No.1.

Coram : M. S. SONAK, J.

Date : 15th October, 2020

ORAL JUDGMENT:

Heard Mr. Ashwin D. Bhobe, the learned Counsel for the appellant and Mr. Vishwadh Sardessai, the learned Counsel for the respondent No.1.

2. Mr. Bhobe submits that the remaining respondents have been duly served in this appeal. However, today, there is no appearance on behalf of any of the respondents.

3. The challenge in this appeal is to the order dated

31.03.2017 by the learned Trial Judge declining any interim reliefs to the appellant. However, the record indicates that this Court by its order dated 05.02.2018, whilst admitting this appeal, granted interim relief in favour of the appellant. The interim relief is continuing till date.

4. Mr. Bhobe points out that that the respondent No.2 to 8 without any right or authority commenced constructions in the property belonging to the appellant. The learned Trial Judge has recorded that the construction was complete and on this basis, temporary injunction was dismissed. Now that interim order was granted by this Court to restrain the respondents No.3 to 8 from undertaking any further construction in the suit property, it is only appropriate that this position continues until the disposal of Civil Suit No.61/2012 pending before the learned Trial Court. Further, interest of justice will be met if the Civil Suit No.61/2012 is ordered to be expeditiously disposed of.

5. Accordingly, in substitution of the impugned order, it is directed that the interim relief granted by this Court on 05.02.2018 will operate until the disposal of Civil Suit No. 61/2012. Further, the Civil Suit No. 61/2012 is directed to be disposed of as expeditiously as possible and, in any case, within a period of one year from today.

5. The parties to cooperate with the learned Trial Judge in the matter of expeditious disposal of the Civil Suit. The learned Trial Judge need not be influenced by any observations in the impugned order or for that matter, the present order, at the time of deciding the suit. The suit will have to be decided on the basis of evidence the parties lead and on its own merits and in accordance with law.

6. The appeal is disposed of in the aforesaid terms. There shall be no order as to costs.

7. All concerned to act on the basis of the authenticated copy of this Order which the appellant shall place before the learned Trial Judge at the earliest.

M. S. SONAK, J.

msr.