

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO.6 OF 2019**

Mrs. Leticia Piedade Cunha

e Mascarenhas & Anr.

... Petitioners

Versus

Mrs. Joana Juliana Pinto & Ors.

... Respondents

Shri Valmiki Menezes, Advocate for the Petitioner.

Shri Ashwin Ramani, Advocate for the Respondent No.1.

Coram:- DAMA SESHADRI NAIDU, J.

Date:- 13th March, 2020

ORAL ORDER :

The petitioner is the defendant in Regular Civil Suit No.41/2016 before the Civil Judge Junior Division, Vasco-da-Gama. The respondent is the plaintiff, who sought a declaration of title and injunction. In the interlocutory application, the Trial Court gave two directions. First, the defendant should not alienate or create third party interest over any part of the disputed property. Second, the defendant should not interfere with the plaintiffs' possession and enjoyment of the property.

2. As the pleadings reveal and as the respective counsel contend, the defendant had been using the disputed property as a parking place for his customers. He maintains a tourist home on his property, adjacent to the disputed property.

3. Aggrieved, the defendant filed Misc. Civil Application

No.97/2016. Eventually, through the impugned order, dated 19/07/2018, the appellate Court dismissed the defendants Misc. Civil Application, too. Further aggrieved, the defendant has filed this Writ Petition.

4. Heard Shri V. Menezes, the learned counsel for the petitioners; and Shri A. Ramani, the learned counsel for the respondent no.1.

5. Indeed, the petitioner's counsel has advanced elaborate arguments touching on various aspects, including the merits of the matter. On the other hand, the respondent's counsel has submitted that the injunction has been in force for the last three years and that the suit is ripe for trial and disposal. According to him, this Court may not interfere with the discretion exercised concurrently by both the courts below. Instead, he wants the Court to direct the trial Court to dispose of the suit early.

6. After going through the impugned order, which runs into 40 pages, I reckon the appellate Court has exercised its discretion and concurred with the trial Court. This Court exercising its supervisory jurisdiction under Article 227 only desires to keep the Courts below within their jurisdictional bounds. Neither the trial Court nor the appellate Court has exceeded its jurisdiction in deciding the interlocutory application. Unless their exercising the discretionary jurisdiction is manifestly perverse, this Court, as a matter of propriety, does not interfere at an interlocutory stage. I see no such legal flaw in the impugned judgment.

I, therefore, decline to interfere. But, at the same time, I hold that

the trial Court will make every endeavour to expedite the trial and dispose of the suit expeditiously in one year—preferably.

DAMA SESHADRI NAIDU, J.

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