

IN THE HIGH COURT OF BOMBAY AT GOA
APPEAL FROM ORDER NO.2 OF 2021
WITH
CIVIL APPLICATION NO.3 OF 2021
IN
APPEAL FROM ORDER NO.2 OF 2021

MUNSHI ZULFIKAR AHMAD ... Appellant / Applicant.

VS

ANGELA U.J. DE OLIVEIRA AND 6 ORS ... Respondents.

Mr. Preetam Talaulikar, Advocate *for the Appellant / Applicant.*

Ms. Asha Dessai, Advocate *for Respondents No.1, 2, 3, and 5.*

Coram: M.S. SONAK, J.

Date: 20th July 2021.

P.C.:

1. Heard Mr. Talaulikar for the Appellant and Ms. Asha Dessai for Respondents No.1, 2, 3, and 5.

2. After this matter was argued for some time, Mr. Talaulikar on instructions seeks to leave to withdraw this appeal. He however submits that it may be clarified that nothing in this order will prevent the Appellant from taking out appropriate proceedings to protect his rights, including, seeking partition, etc. Mr. Talaulikar also requests that it may be clarified that the observations in the impugned order will not in any

manner prejudice the Appellant when it comes to the final disposal of the suit on merits.

3. Mr. Talaulikar further requests that the Special Civil Suit No. 26/2019/B may itself be ordered to be expedited, since, the Appellant, as well as Respondent No.1, are senior citizens.

4. According to me, leave can be granted to withdraw this appeal with liberty as prayed for. The injunction order restricts the Appellant from attempting to dispossess the Plaintiffs otherwise than by due process of law. Therefore, if the Appellant wishes to adopt the due process of law, there can obviously, be no bar for the same.

5. Similarly, it is only appropriate that the Trial Court does not allow itself to be influenced by any of the observations in the impugned order which is made at the interlocutory stage. The suit will have to be decided on its own merits and in accord with law depending on the evidence that the parties lead before the Trial Court.

6. Having regard to the peculiar circumstances of the present case and the fact that some of the parties are senior citizens, the learned Trial Judge is directed to dispose of this suit as expeditiously as possible and in any case, within one year from the date, the parties filed authenticated copy of this order. The learned Counsel for the parties assure this Court that they will cooperate with the learned Trial Judge for the expeditious disposal of the suit.

7. The parties / their Counsel to appear before the Trial Court on 02.08.2021 at 10:30 a.m. and file authenticated copy of this order. If necessary, the learned Trial Judge to prepone the date which is now stated to be in September of 2021 so that the directions for the expedition are complied with.

8. The appeal is disposed of in the aforesaid terms. There shall be no order as to costs. All concerned to act based on an authenticated copy of this order.

9. Civil Application does not survive and the said is disposed of.

M.S. SONAK, J.

jfd/-