

IN THE HIGH COURT OF BOMBAY AT GOA

APPEAL FROM ORDER NO. 01 OF 2021

Bhanudas Prabhakar Morajkar & 7 Ors.

..... Appellants

V e r s u s

Eknath Morajkar & 3 Ors.

..... Respondents

Mr. A. D. Bhobe, Advocate for the Appellants.

Mr. S. D. Lotlikar, Senior Advocate with Mr. T. Sequeira, Advocate for the Respondents.

Coram :- M. S. SONAK, J.

Date : 16th June, 2021

ORAL ORDER

1. After the matter was argued for sometime, Mr. Lotlikar, learned Senior Advocate appearing on behalf of the Respondents, on instructions from the Respondents, makes a statement that the Respondents will not interfere with the suit property or the suit business which the Appellants carry on therefrom until the pendency and final disposal of the suit.

2. Mr. Lotlikar, learned Senior Advocate, however makes it clear that this statement is made without prejudice to the contentions of the Respondent

nos. 1 and 2 that even they are carrying on the business from the suit premises.

3. Mr. Lotlikar, learned Senior Advocate, however submits that suitable directions be issued to dispose of Special Civil Suit No.53 of 2019/A as expeditiously as possible and, in any case, within six months so that the Respondent nos. 1 and 2 are not unduly prejudiced by the statement made on their behalf today.

4. Mr. A. D. Bhobe, learned Counsel, submits that it is the Appellants who are carrying on the business to the suit property and, in any case, the Appellants can have no objection to the expeditious disposal of the suit.

5. The statement that the Respondent nos. 1 and 2 will not interfere with the suit property or the business that is being carried out by the Appellants therefrom is accepted as a statement made to this Court. Respondent nos. 1 and 2 will have to abide by that statement, no doubt, without prejudice to their right to raise all contentions on law as well as on facts in the trial of the suit.

6. Similarly, all contentions of all other parties including the Appellants are also left open to be raised and decided in the suit.

7. In view of the aforesaid statement, obviously, the impugned order dated 23.12.2020 will not be acted upon. The Trial Court will have to dispose of the suit on its own merits and in accordance with law uninfluenced by the impugned order or for that matter, the interim order made by this Court in the present Appeal. Similarly, the Trial Court will also not be influenced by the without prejudice statement now made on behalf of Respondent nos. 1 and 2. The suit will have to be decided on the basis of the evidence which the parties lead and the law as is applicable. In short, the suit will have to be decided on its own merits and in accordance with law.

8. Now that the Respondent nos. 1 and 2 have made the aforesaid statement, it is only proper that the learned Trial Court is directed to dispose of the suit as expeditiously as possible and, in any case, within a period of six

months from the date the parties produce an authenticated copy of this order. The Trial Court is directed to do so accordingly.

9. The learned Counsel for the parties assure this Court that they will fully cooperate with the learned Trial Judge in the matter of disposal of the suit and no unnecessary adjournment will be sought for by the parties.

10. This appeal is disposed of in the aforesaid terms.

11. The parties to appear before the Trial Court on 30.06.2021 at 10.00 a.m. and produce authenticated copy of this order.

12. All concerned to act on the basis of an authenticated copy of this order.

M. S. SONAK, J.