

IN THE HIGH COURT OF BOMBAY AT GOA

CONTEMP PETITION No. 36 OF 2019
IN
APPEAL FROM ORDER NO. 49 OF 2019

Leticia Lobo Braganza E Lobo
@ Leticia Ameliana Braganza,
Thr. her const. Att. Keith M. Crasto

..... Petitioner

V e r s u s

Angad Singh Bilochpura And 2 Ors

..... Respondents

Mr. M. B. D'Costa, Senior Advocate with Ms. Karishma Custa Betquecar ,
Advocate for the Petitioner.

CORAM : M. S. SONAK, J

DATE : 15th June, 2021

P.C.

Heard Mr. M. B. D'Costa, learned Senior Advocate who appears with Ms. Karishma Betquecar, learned Advocate for the petitioner.

2. The petition alleges wilful disobedience of the order made by this Court on 21.08.2019 in Appeal from Order No. 49 of 2019. In support of this petition, the petitioner has placed on record certain photographs alleging that a new construction has come up in defiance of the injunction order made by this Court. The petitioner also seeks

appointment of a Commissioner to inspect the suit property and submit a report on the same.

3. According to me, investigations into allegations of wilful disobedience will require, possibly, the appointment of a Commissioner as well as adjudication into some basic factual issues. The order dated 21.08.2019 by which this court granted the injunction, was undoubtedly an order made in exercise of provisions of Order 39 Rule 1 and 2 of CPC. Though, the order was made by this Court, it is not as if the learned Trial Court cannot exercise powers conferred by Order 39 Rule 2A of the CPC, if it is established that there has been disobedience or breach of the order of injunction. In fact, it will be the duty of the Trial Court to look into the aspect of breach or disobedience of the injunction order.

5. Therefore, it will be appropriate if the petitioner takes out appropriate proceedings before the Trial Court complaining of disobedience or breach of injunction. Mr. M. B. D'Costa, learned Senior Advocate for the petitioner states that such application will be filed before the Trial Court within a period of 4 weeks from today, considering that the petitioner is based in Mumbai and presently, there are some difficulties on account of Covid-19 situation. If such application is filed, the Trial Court to look into the application and dispose of the same in accordance with law and on its own merits. The Trial Court, will obviously afford opportunity to the party

which is alleged to have disobeyed or breached the injunction.

6. With the aforesaid observations as well as liberty, this petition is disposed of.

7. All contention of all parties are expressly left open to be determined by the learned Trial Court, in accordance with law and on its own merits.

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

M. S. SONAK, J.

msr.