

Santosh

IN THE HIGH COURT OF BOMBAY AT GOA
WRIT PETITION NO.30 OF 2018
WITH
MISC. CIVIL APPLICATION NO.6 OF 2018

JOSE KENNEDY BARRETO

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BARRETO AND ANR.,

.... Petitioners.

VERSUS

ANTONIO D'SOUZA AND ANR.,

..... Respondents.

Mr. Guru Shirodkar, with Ms. Tierra Donna Maria Fernandes,
 Advocates for the Petitioners.

Mr. Balkrishna Sardesai, Advocate for the Respondents.

Coram : M.S. Sonak, J.

Date : 13th July, 2021.

P.C. :

Heard Mr. Shirodkar for the Petitioners and Mr. Sardesai
 for the Respondents.

2. The challenge in this Petition is to the Order dated
 10/11/2017 made by the District Judge – 1, South Goa, at Margao,
 setting aside the Trial Court's order, which had granted an injunction
 in favour of the Petitioners-original Plaintiffs.

3. The operative portion of the impugned order dated
 10/11/2017, reads as follows :

“The appeal is hereby granted.

The impugned order is hereby quashed and set aside.

The appellants shall make an opening to the wall, which shall be kept open for a period of 2 days i.e. on 13th and 14th to allow the plaintiffs to remove their vehicles from the suit plot and the plaintiffs shall remove the two vehicles within the said two days.

Proceedings closed”.

4. Admittedly, there is no interim relief operating in this Petition right from the year 2017. This means that the impugned order, though temporary in nature, has been executed.

5. At this stage, rather than decide this Petition, it would be in the interest of justice if the Trial Court is directed to dispose of Regular Civil Suit No.29/2017/A (pending in the Court of Senior Civil Judge, at Vasco, Goa) as expeditiously as possible and, in any case, within a period of maximum 8 months from today. The disposal of the Suit will, once and for all, set the controversy about the access, at rest.

6. Accordingly, though the impugned order is not interfered with at this stage, the learned Trial Judge is directed to dispose of Regular Civil Suit No.29/2017/A as expeditiously as possible and, in any case, within a period of 8 months from the date parties file an authenticated copy of this order before the learned Trial Court. The learned Counsel for the parties state that the Suit has already reached

at the stage of evidence, and, therefore, there should be no difficulty in disposing of the Suit, expeditiously. The learned Counsel for the parties have also assured this Court that they will cooperate with the learned Trial Judge for expeditious disposal of the main Suit itself.

7. The learned Trial Judge to dispose of the Suit, on its own merits and in accord with law. The learned Trial Judge should not be influenced by the orders made at the interim stage by the Trial Court and the Appeal Court. The learned Trial Judge should also not be influenced by the circumstance that the order made by the Appeal Court is not being interfered with at this stage. All contentions of all parties, are expressly left open and at the stage of final disposal of the Suit, there is no question of the learned Trial Judge being influenced by any observations in the orders disposing of the application seeking interim relief.

8. With the aforesaid observations and the directions, this Petition is disposed of.

9. The parties to place an authenticated copy of this Order before the learned Trial Judge on the next date of hearing fixed before the Trial Court.

10. All concerned to act based on an authenticated copy of this

Order.

11. Civil Misc. Application No. 6/2018 does not survive and is disposed of.

M.S. Sonak, J.

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