

*Vinita*

**IN THE HIGH COURT OF BOMBAY AT GOA.  
APPEAL FROM ORER NO. 9 OF 2022**

REGINA      EFIANA      VINCENTINA      ... Appellants.  
COLACO AND 5 ORS  
VS  
KEEGAN   PETER   FERNANDES   AND   ...Respondents.  
ANR

Mr. Rohit Bras De sa, Advocate for the Appellants.

**CORAM:      G. S. KULKARNI, J.**  
**DATE:        15 SEPTEMBER 2022.**

**P.C.:**

- 1.**      Heard Mr. R. Bras De Sa, learned Counsel for the appellants.
- 2.**      In this appeal a challenge is raised to an order dated 10.5.2022 passed by the learned Ad-hoc Senior Civil Judge, "B" Court, Panaji, on an application filed on behalf of the appellants/plaintiffs under Order 39 Rules 1 and 2 read with Section 151 of the CPC, whereby such application for temporary injunction has been rejected.
- 3.**      The suit in question was filed by the appellants/plaintiffs *inter alia* for a relief of a declaration that the plaintiffs and defendant nos. 3 and 4 are legal owners of the property and for a declaration that defendant nos. 1 and 2 are trespassers. The appellants also prayed that a decree be granted directing defendants nos.1 and 2 to demolish the house in the suit property

and to restore the suit property to its original condition, and to hand over the vacant and peaceful possession of the suit property to the plaintiffs and defendant nos.3 and 4. There is prayer for permanent injunction that defendant nos.1 and 2 be restrained from interfering in any manner with the suit property and for mense profits.

4. Defendant no 1 and 2 in their reply to the injunction application took a plea that the appellants/plaintiffs had no locus or cause of action to file the present suit as also they had no right, title or interest in the suit property. It was contended by defendant nos.1 and 2 along with their family members were in exclusive, peaceful, uninterrupted and hostile possession of the suit house and the suit property for more than 50 years and have perfected their title by adverse possession. They contended that they had not carried out any illegal construction as alleged by the plaintiff. It was also the case of defendant nos.1 and 2 that the appellants/plaintiffs had not produced any document to demonstrate that plaintiffs/appellants had any right, title or interest in the suit property.

5. The learned trial Judge after examining the rival contentions has come to a prima facie conclusion as seen from the detailed reasons as set out in the impugned order, that the appellants/plaintiffs had failed to make out a prima facie case to be entitled for the relief of a temporary injunction

so that the defendants no 1 and 2 (respondents nos. 1 and 2) could be restrained from undertaking any construction.

6. Having heard learned Counsel for the petitioner and having perused the impugned order in my opinion, the prima facie view taken by the learned trial Judge requires no interference. Appeal is accordingly dismissed, however, keeping open all contentions of the appellants in the pending suit.

7. At this stage, learned Counsel for the appellants/plaintiffs would request that the hearing of the suit be expedited. Considering that one of the plaintiffs is a senior citizen it is open to the appellants/plaintiffs to make such a prayer before the learned trial Judge. If such a prayer is made, it be considered on its own merits.

8. Appeal stands disposed of. No costs.

**G. S. KULKARNI,J.**