

Esha

IN THE HIGH COURT OF BOMBAY AT GOA

APPEAL FROM ORDER NO.12 OF 2017

WITH

APPEAL FROM ORDER NO. 408 OF 2021 (F)

MATCHES GOA PVT. LTD., ... APPELLANT

VS

IRWIN SOARES AND ANR., ... RESPONDENTS

Mr. Sanman Keny, Advocate for the Appellant.

Mr. Gideon Noronha, Advocate for Respondent Nos. 1 & 2.

WITH

WRIT PETITION NO. 725 OF 2018

MATCHES GOA PVT. LTD., REP. BY,

CHANDRAKUMAR R. HUILGOL., ... APPELLANT

VS

STATE OF GOA, THR. THE CHIEF

SECRETARY, GOVT. OF GOA AND 2 ORS. ... RESPONDENTS

Mr. Sanman Keny, Advocate for the Appellant.

Ms. Susan Linhares, Additional Government Advocate for
the Respondents.

CORAM: G. S. KULKARNI, J.

DATED: 1 DECEMBER 2022

ORAL ORDER.

1. Appeal From Order No. 12/2017 has been filed by the appellant/plaintiff assailing an order dated 29 March 2016 whereby an application (Exhibit-D/2) filed by the appellant/plaintiff for a temporary injunction has been partly allowed in terms of prayer clause (b) to the extent that the defendants, their agents, servants, relatives or any other persons from changing the nature of the plaintiff's property bearing survey nos. 73, 75 and 76 by undertaking any work of development or any other construction activity therein in any whatsoever manner.

2. There is a connected Appeal [Appeal From Order No. 408/2021 (F)], which has also been filed by the appellant/plaintiff, assailing an order dated 25 September 2020, by which, an application filed by the original defendant no. 1 (respondent no. 1) for a temporary injunction in respect of survey no. 71/4, has been granted by the following order:

“Application at exhibit 65/D is partly allowed. Pending the hearing and final disposal of the present suit the plaintiff is restrained from digging/excavating mud and planting trees/saplings in property bearing survey no. 71/4 of village Sancordem and causing obstruction to the access of the defendants as pleaded in paragraph 28 of the plaint.”

3. Since then, these Appeals have been pending final disposal.

4. It may be observed that by an order dated 29 March 2016, the learned Trial Judge has granted injunction in terms of prayer clause (b) and relief in terms of prayer clause (a) pertaining to survey no. 71/4 was not granted to the appellant/plaintiff. Such position continued even under order dated 25 September 2020 passed by the learned Trial Court in adjudicating the temporary injunction application filed by respondent no. 1. In any event, the part injunction granted in favour of the plaintiff/appellant is also the relief granted by subsequent order dated 25 September 2020. The suit is now at the stage of evidence.

5. In such circumstances, no useful purpose would be served in keeping these Appeals pending and therefore, it would be appropriate that these Appeals are disposed of by maintaining the position as operating under both the impugned orders. The parties are left to assert their rights in the pending suit and/or any other proceedings. Parties to co-operate in early disposal of the suit. Keeping open all contentions of all the parties to be agitated in the suit, both these Appeals are disposed of.

6. Civil Application No. 409/2021 (F) in Appeal From Order No. 408/2021 (F) would also not survive. It is accordingly disposed of.

7. Both the Appeals stand disposed of. No costs.

8. Writ Petition No. 725/2018 stands de-tagged and shall be heard independently. Place the said Writ Petition on 18 January 2023.

G. S. KULKARNI, J.

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ESHA SAINATH

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