

Meena

IN THE HIGH COURT OF BOMBAY AT GOA

**APPEAL FROM ORDER NO.3 OF 2021
WITH
CIVIL APPLICATION NO.4 OF 2021
IN
APPEAL FROM ORDER NO.3 OF 2021**

- 1 Shri Pratapsingh Rauji Rane,
Son of late Rauji Rane,
82 years of age,
Residing at H. No 41, Vithalapur,
Sanquelim, Goa
 - 2 Smt. Vijayadevi Pratapsingh Rane,
Wife of Pratapsingh Rauji Rane,
72 years of age,
Residing at H. No 41, Vithalapur,
Sanquelim, Goa
- ...Appellants

V/s.

- 1 Smt. Lilawati Sazro Naik Mandrekar
@Manjarekar,
Widow of Sazro Babulo @Babli Naik
Mandrekar @ Manjarekar,
Major of age,
r/o H. No 62, Colamb Wada, Carapur,
Sanquelim – Goa
- 2 Shri Pandurang Sazro Naik Mandrekar
@Manjarekar,
Son of Sazro Babulo @Babli Naik
Mandrekar @ Manjarekar,
Major of age,
r/o H. No 62, Colamb Wada, Carapur,
Sanquelim – Goa

- 3 Smt. Janaki Pandurang Naik Mandrekar
Manjarekar,
w/o Pandurang Sazro Naik Mandrekar @
Manjarekar,
Major of age,
r/o H. No 62, Colamb Wada, Carapur,
Sanquelim – Goa
- 4 Shri Jaiwant Dipa Dubhashi,
Sone of late Dipa Govind Dubhashi,
Major of Age,
r/o Flat no 301, Manikanchan Apartment,
Kanchan Galli Road,
Pune – 411004.
- 5 Shri Umakant Dipa Dubhashi,
Son of late Dipa Govind Dubhashi,
Major of Age,
r/o Flat No. 7-A, ‘Shradda’,
Sitladevi Temple Road,
Mahim, Bombay – 400106.
- 6 Smt. Lalita Umakant Dubhashi,
Wife of Umakant Dipa Dubhashi,
Major of Age,
r/o Flat no. 7-A, ‘Shradda’,
Sitladevi Temple Road,
Mahim, Bombay – 400106.
- 7 Shri Jaiwant Govind Sherlekar,
Son of late Govind Sherlekar,
Major of age,
r/o H. No. 12/1, ‘Sherlekar House’,
Vijar Nagar, Manik Baug Road,
Indore, Madhya Pradesh – 452010.
- 8 Shri Shailesh Jaiwant Sherlekar,
Son of Jaiwant Govind Sherlekar,
Major of age,

r/o H. No. 12/1, 'Sherlekar House',
Vijar Nagar, Manik Baug Road,
Indore, Madhya Pradesh – 452010.

- 9 Smt. Manisha Shailesh Sherlekar,
w/o Shailesh Jaiwant Sherlekar,
Major of age,
r/o H. No. 12/1, 'Sherlekar House',
Vijar Nagar, Manik Baug Road,
Indore, Madhya Pradesh – 452010.
- 10 Smt. Chaya Prabhakar Dubhashi,
Widow of Prabhakar Dubhashi,
Major of age,
Residing at Flat No. 1. Prestige
Apartments, 14th Lane, Prabhat Road,
Pune – 411040.
- 11 Shri Dipa Prabhakar Dubhashi,
Son of late Prabhakar Dubhashi,
Major of age,
Residing at Flat No. 1. Prestige
Apartments, 14th Lane, Prabhat Road,
Pune – 411040
- 12 Smt. Revati Dipa Dubhashi,
Wife of Dipa Dubhashi,
Major of age,
Residing at Flat No. 1. Prestige
Apartments, 14th Lane, Prabhat Road,
Pune – 411040
- 13 Smt. Priya Mandar Waghlikar,
Wife of Mandar Waghlikar,
Major of age,
r/o Flat No. 3, Bhuwaneshwar Housing
Society, Pashan Road, Pune – 411040.
- 14 Shri Mandar Sudhakar Waghlikar,

Son of Sudhakar Waghlikar,
Major of age,
r/o Flat No. 3, Bhuwaneshwar Housing
Society, Pashan Road, Pune – 411040.

...Respondents.

Shri A.D. Bhobe with Ms S. Shaikh, Advocate for the Appellants.

Shri R.G. Ramani, Senior Advocate with Shri Pranav Shenvi Kakodkar,
Advocate for respondent Nos.1 to 3.

CORAM: BHARAT P. DESHPANDE,J.

DATED : 17th August, 2023

ORAL JUDGMENT:

1. Heard learned Counsel Shri A.D. Bhobe with Ms S. Shaikh for the appellants and Shri R.G. Ramani, learned Senior Counsel with Shri Pranav Shenvi Kakodkar, learned Counsel for respondent Nos.1 to 3.
2. The impugned order is an order disposing of an application filed by the plaintiff for ad-interim injunction.
3. Shri Bhobe appearing for the appellant pointed out that the application under Order 39 Rule 1 and 2 of CPC was earlier filed and the same is still pending. During the pendency of such application, the plaintiffs/respondents moved another application for ad-interim relief/status quo against defendants No.13 and 14/appellants herein.

4. Perusal of the impugned order shows that the learned Trial Court consumed a lot of time by dictating an order which runs into 37 pages only to an application for ad-interim relief even though the application for temporary injunction is still pending.

5. It is surprising that a separate application was filed for grant of ad-interim relief when application for temporary injunction was pending before the Trial Court. Instead of deciding the temporary injunction application, only an application for ad-interim relief was taken up and the operative part shows that such ad-interim relief application was granted during pendency and final disposal of the temporary injunction application.

6. The impugned order was passed on 16/12/2020. It is reported that as on date the application for temporary injunction is still pending.

7. Considering the above facts, it will be proper to direct the learned Trial Court to decide a temporary injunction application filed by the plaintiff within a specified time, without influenced by the observations made in the impugned order. The arguments of the parties would be the same with regard to the application for temporary injunction and therefore it would be proper to direct the learned Trial Court to first decide the application for temporary injunction.

8. Considering the above factual matrix, the present Appeal from Order could be disposed of with directions to the Trial Court.

9. The learned Trial Court is directed to decide a temporary injunction application filed by the plaintiff against all the defendants including present appellants, within a period of 30 days from the date of the copy of order placed before it. It is submitted that the next date is fixed as 13/09/2023. It is made clear that the appellant shall produce an authenticated copy of this order before the Trial Court in the next week on 22/08/2023. The plaintiff shall remain present before the Trial Court on 22/08/2023 at 10.00am. The learned Trial Court shall take up/prepone the date and decide the temporary injunction application within a period of one month from 22/08/2023 after hearing all the parties. Suffice it to say that the Trial Court shall not be influenced by the observations made by it in the impugned order. Temporary injunction application shall be decided on its own merits.

10. All contentions of all parties are squarely kept open. With these observations the present appeal along with Civil Application stand disposed of.

11. Parties to act on an authenticated copy of this order.

BHARAT P. DESHPANDE, J.

MEENA
VISHAL BHOIR

Digitally signed by
MEENA VISHAL BHOIR
Date: 2023.08.17
16:33:02 +05'30'