

Amrut

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 225 OF 2022

JUDE SEBASTIAN  
FERNANDES AND ANR

... Petitioners

*Versus*

ABRAHAM JOSEPH AND 5 ORS.

... Respondents

Mr A. D. Bhobe, Advocate for the Petitioners.

CORAM: M. S. SONAK, J.

DATED : 27<sup>th</sup> JULY 2023

P.C.:

1. Heard Mr Bhobe, learned counsel for the Petitioners.
2. This petition challenges the concurrent orders made by the trial Court and the Appeal Court injuncting the Petitioners/defendants from interfering with the suit house without taking recourse to the law.
3. The plaintiff claims to be a tenant of the suit premises. The issue is not whether such tenancy is proved or not but considering the *prima facie* material on record, two Courts have accepted the plaintiff's case of tenancy. The finding cannot be said to be arbitrary or perverse given the fact that it is only a *prima facie* finding.

Therefore, applying the test in *Wander Ltd., and Another Vs Antox India P. Ltd.*,<sup>1</sup> no case is made out to interfere with the two orders.

4. Besides, liberty is granted to the Petitioners to take recourse to the law should the Petitioners desire any lawful orders against the plaintiff. Accordingly, no case is made out to interfere with the impugned orders. However, it is clarified that none of the observations or *prima facie* findings in the impugned orders, or for that matter, the present order should influence or be taken into consideration by the trial Court while disposing of the suit on merits.

5. Petitioner No.1 is 68 years old. The material on record *prima facie* shows that the suit house is in a dilapidated condition. Considering this aspect, the hearing in Regular Civil Suit No.14/2019/D is ordered to be expedited. The trial Court should endeavour to dispose of the suit as expeditiously as possible and in any case within 18 months from today. All parties should cooperate in the expeditious disposal of the suit.

6. With the above clarification, the petition is disposed of.

M. S. SONAK, J.

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<sup>1</sup> 1990 Supp. SCC 727