

Santosh

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 302 OF 2017

1. Mr. Caetano Santano Xavier,
S/o Francisco Pledade Xavier, Major In
age, taxi driver,

2. Mrs. Pledade Quadros Xavier,
w/o. Caetano Santano Xavier, Major in
age, Housewife,

3. Mr. Ignatius Xavier, s/o. Caetano
Santano Xavier,
all r/o. H. No. 127, Ambulor, Verna,
Salcete, Goa.

..... Petitioners.

Versus

1. Mrs. Josefa Abranches,
Widow of Vincente Melo, aged 61
years, housewife and her son;

2. Mr. Bernardino Jose Melo,
Son of Vincente Melo, aged 37 years,
both residents of [H.No.](#) 134, Ambulor,
Verna, Salcete, Goa.

3. Mrs. Maria Saprecia Abranches,
widow of Jose Quadros, aged 58 years,
housewife, and her son;

4. Mr. Vailaikanni Nicolau Quadros,
Son of Jose Quadros, aged 27 years,
Service, Both residents of [H.No.](#) 47,

Peterpur, Nuvem, Salcete, Goa.

5. Mr. Sunny Moniz,
Son of Alexio Moniz, aged 25, Service;

6. Miss. Stacy Mary Moniz,
D/o. Alexio Moniz, aged 22,
Student, both resident of Verna,
Bamborda, Salcete, Goa.

7. Mrs. Conceicao Abranches,
d/o. Minguel Abranches, aged 50 years,
agriculturist and her husband;

8. Mr. Piedade Colaco,
aged 51 years, agriculturist,
both resident of Ambulor, Verna,
Salcete, Goa.

9. Mrs. Josefa Gama,
w/o. late Rocky Gama, major in age,
housewife,

10. Mrs. Martina Gama,
w/o. late Joao Gama, major in age,
housewife,

11. Mr. Leo Gama,
s/o. late Joao Gama, major in age,
Service, 12. Mr. Pascoal Gama, major
in age, Service,
all r/o. [H.No.](#) 117, Ambulor, Verna,
Salcete, Goa

.... Respondents.

Mr Joaquim Godinho, Advocate for the Petitioners.
Mr Parikshit Sawant, Advocate for Respondents No.1 and 2.

CORAM : M. S. SONAK, J.

DATED : 10th FEBRUARY 2023

ORAL JUDGMENT :

1. Heard Mr Godinho for the Petitioners and Mr Praikshit Sawant for Respondents No.1 and 2. With their consent, the matter is taken up for disposal.
2. The Petitioners are the original Defendants in Regular Civil Suit No. 337/2015/C and the Respondents are the original Plaintiffs.
3. The Trial Court ordered status quo pending disposal of the suit. Respondents No.1 and 2 have alleged that despite the status quo order, the Petitioners continued with the construction. Based on this allegation, they also filed an application, restraining the Petitioners from obtaining electricity connection or occupying the suit structure.
4. The Trial Court, by its order dated 12/5/2016, injuncted the Petitioners from undertaking any further constructions, but rejected the application restraining them from obtaining the electricity connection.

5. The Respondents, therefore, appealed and the Appeal Court, by the impugned order has restrained the Petitioners from occupying and obtaining the electricity connection.

6. Since the impugned orders were made based on the allegation that the Petitioners continued with the construction in defiance of the status quo order, it is only appropriate that there is some finding on this aspect. For this purpose, the Trial Court is already holding an inquiry in the contempt petition or rather in the application for disobedience of the injunction order in favour of the Respondents No.1 and 2.

7. The Trial Court is directed to complete this inquiry and arrive at a finding on this issue one way or the other, as expeditiously as possible and, in any case, within three months from the date the parties file an authenticated copy of this order. Both the parties and their Advocates to cooperate with the Trial Court in concluding this inquiry.

8. In the inquiry, if it is ultimately found that the Petitioners had not continued with the construction in defiance of the status quo order, then, the Trial Court will permit the Petitioners to obtain the electricity connection to the suit structure, subject to, no doubt, all other necessary formalities prescribed by the

Electricity Department. All this will be subject to the final orders in the Suit.

9. The impugned order is modified to the aforesaid extent only. Further, it is clarified that the inquiry and the suit itself should be decided on merits and depending upon the evidence that the parties led in the matter. The Trial Court should not be influenced by any of the orders made at the interim stage, including the present order. All contentions of all parties, on merits in the course of the inquiry for disobedience or in the final suit are, therefore, kept open.

10. Rule in this Petition is disposed of in the above terms, without any order for costs.

11. Parties to file an authenticated copy of this order on the next date fixed in the suit.

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

M. S. SONAK, J.