

Santosh

IN THE HIGH COURT OF BOMBAY AT GOA
WRIT PETITION NO.362 OF 2012

1. Shri Mulla M. Muzawar
s/o Shri Mulla Ahamed, major,
married, businessman, r/o Cotwada,
Curti, Ponda-Goa. (original Appellant
No.1)

2. Shri Mulla Humza Muzawar,
s/o Shri Mulla Ahamed, major,
married, businessman, r/o Cotwada,
Curti, Ponda-Goa. (original Appellant
No.3)

3. Smt. Shamshad Begum,
age 42, wife of Sheikh Sattar,
daughter, resident of H. No. 163,
Rumda Chawl, Vasco-daGama.
(original Appellant No.4(b))

4. Smt. Mulla A. Muzawar,
s/o Shri Mulla Kashim, major,
married, service, r/o Cotwada, Curti,
Ponda-Goa. (original Appellant No.5)

5. Smt. Zainth Bi, w/o Shri Mulla A.
Muzawar, major, married, housewife,
r/o Cotwada, Curti, Ponda-Goa.
(original Appellant No.6)

... Petitioners

Versus

1. Shri Sadruddin Royal, son of Shri Allauddin Royal, major, married, businessman, Resident of Bermar Apartments, St.Cruz Tisk, Ponda, Goa, (through his Constituted Attorney, Mrs. Praveen Nizar Lalani, wife of Mr. Nizar Lalani, major, married, housewife, resident of Bermar Apartments, St. Cruz, Tisk Ponda, Goa. (original Respondent No.1/(original Plaintiff)

2. M/s Sagar Builders & Real Estate Developers, A Partnership Firm, with its office at B-2, Joshiana Apartments, Santa Cruz, Tisk, Ponda, Goa. (original Respondent No.2)

3. Shri Dinkar Kashinathrao Patil, son of Shri Kashinathrao Yeshwantrao Patil, major, married, businessman, r/o B-2, Joshiana Apartments, Santa Cruz, Tisk, Ponda, Goa. (original Respondent No.3)

4. Shri Prayag Dinkar Patil, major, married, business-lady, r/o B-2, Joshiana Apartments, Santa Cruz, Tisk, Ponda, Goa (original Respondent No.4.)

5. Smt Mariam Bi, Wife of M. Muzawar, Major, married, housewife, Since deceased represented through Legal heirs.

5 (a) Mrs. Rabiam Bi, daughter,

5 (b) Mr. Akbar Shah, son-in-law,
Both residing near New Nanus,
Muslim wada, Valpoi, Sattari Goa.

5 (c) Mrs. Dilshad Bi, daughter,
married,

5(d) Mr. Nazir Aga, (since deceased)
Through legal representatives

5(d)(i) Nadeem Aga, son of deceased
Respondent No.5(d);

5(d)(ii) Mohsin Aga, son of deceased
Respondent No.5(d),

Both residents of Muslim, Wada, New
Nanus, Valpoi, Sattari, Goa.

5 (e) Mr. Mulla Munaf Muzawar, son,

5 (f) Mrs. Saffura Bi, daughter-in-law
Both residing at Kotwada Ponda Goa,

5 (g) Mrs. Rizwana Bi, daughter

5 (h) Mr. Shaikh Iramuddin, son-in-
law Both Residing at Muslim wada
Maszid, Bhoma, Ponda, Goa

6. Shri Kurshed Bi, wife of Mulla
Humza Muzawar, major, married.
housewife, r/o Cotwada, Curti,
Ponda-Goa. (original Appellant No.4)

7. Shri Sheikh Abdul Sattar, age 50, s/o Sheikh Wahab, son-in-law, r/o H. No.163, Rumda Chawl, Vasco-da-Gama. (original Appellant No.4 (a)

8. Shri Ameer Sheikh Adam, age 50, son of Sheikh Adam, son-in-law, resident of Flat No. F3, Sharifa Residency “b”, near Naga Masjid, Ponda, Goa. (original Appellant No.4 (c)

9. Smt. Fahmida Bi, age 41, wife of Ameer Sheik, daughter, resident of Flat No. F-3, Sharifa Residency “b”, near Naga Masjid, Ponda, (Goa. (original Appellant No.4 (d)

10. Shri Sheikh Abdul Rahim, age 49, son of Sheikh Mohiddin, son-in-law, resident of Flat No. SF-2, H.M. residency, Opp. Dr. Prabhudessai Clinic, Upper Bazar, Ponda, Goa. (original Appellant No.4 (e)

11.Smt. Rahaat Sheikh, age 36 years, wife of Albdul Rahim, daughter, resident of Flat No. SF-2, H.M. residency, Opp. Dr. Prabhudessai Clinic, Upper Bazar, Ponda, Goa. (original Appellant No.4 (f) |

12. Shri Mulla Ezaz Muzawar, age 38 years, son of Mulla Hamza Muzawar,

son, resident of **H.No.** 25/1,
Cotawada, Ponda, Goa. (original
Appellant No.4 (g)

13.Smt. Asma Muzawar, age 33 years,
wife of Mulla Ezaz Muzawar,
daughter-in-law, resident of **H.No.**
25/1, Cotawada, Ponda, Goa. (original
Appellant No.4 (h)

.... Respondents.

Mr Terence Sequeira, Advocate for the Petitioners.

Mr J. Godinho, Advocate for Respondents No. 1.

CORAM: M. S. SONAK, J.

DATED : 3rd FEBRUARY 2023

ORAL JUDGMENT:-

1. Heard the learned Counsel for the parties. With their consent, this matter is taken up for disposal.
2. Respondent No.1 is the original Plaintiff in Special Civil Suit No.31/2007/A. The Plaintiff complained of forcible dispossession and applied for temporary mandatory injunction to restore the possession of the suit shop. The Trial Court and the Appeal Court, granted temporary mandatory injunction as prayed for. However, such orders were stayed by this Court subject to the Petitioners' depositing ₹15,000/- each month. This interim order operates till date.

3. The leaned Counsel for the parties point out that for some reasons, the evidence has not commenced in the suit. The interest of justice would be met if the Trial Court is now directed to dispose of the main suit, on merits, within six months from the date the parties produce an authenticated copy of this order. Such suit will have to be decided on its own merits and without being influenced by any of the orders made by the Courts at the interim stage, or the fact that this Petition is now being disposed of by continuing the interim relief granted at the time of admission of this Petition.

4. Accordingly, this Petition is disposed of by directing the Trial Court to dispose of Special Civil Suit No.31/2007/A, which is now renumbered as Regular Civil Suit No.81/2015, as expeditiously as possible, and in any case, within six months from the date of the parties producing an authenticated copy of this order.

5. The interim order granted by this Court will operate during the pendency of the suit. This means that the mandatory injunction order shall remain stayed, but subject to the Petitioners disposing an amount of ₹15,000/- each month. The Registry should now transfer the deposited amount to the Registry of the Trial Court and into the account of Special Civil Suit No.31/2007/A, which is now renumbered as Regular Civil Suit

No.81/2015. This amount will have to be invested and each month, the Petitioners will continue to deposit this amount.

6. Further, it is directed that this deposited amount will abide by the final orders in the suit.

7. Parties/their Advocates to appear before the Trial Court on 20/02/2023 at 10.00 a.m. and file an authenticated copy of this order.

8. The Petition is disposed of in the above terms, without any orders for costs.

M. S. SONAK, J.