

Niti

IN THE HIGH COURT OF BOMBAY AT GOA

CIVIL APPLICATION NO.79 OF 2023

IN

FIRST APPEAL NO.65 OF 2023

FILOMENA JOANITA MENEZES THR POA

RUI MENEZES

... APPLICANT

Versus

KAMAT REAL ESTATE DEVELOPERS AND 5

ORS

... RESPONDENTS

Mr Nigel Da Costa Frias with Ms Barbara Andrade, Advocate for the Applicant.

Ms S. Kenny, Advocate for Respondent Nos.1 to 4.

CORAM:- M. S. SONAK, J.

DATED :- 7th December, 2023

P.C.:

Heard Mr Costa Frias, who appears along with Ms Barbara Andrade for the applicant. Ms Kenny appears for respondent nos.1 to 4.

2. The accompanying First Appeal is already admitted. This is an application for interim relief to injunct respondent nos.1 to 4 from using the 10 mtr. wide road (suit road) or in the alternate to direct the respondent nos.1 to 4 to deposit an amount equal to the market value of the property on which the suit road is laid.

3. The appeal is against the judgment and decree by which the applicant's suit came to be dismissed. During the pendency of the suit,

the only interim relief that was granted by the Court was that the works undertaken by the respondents during the pendency of the suit would be subject to the final orders in the suit. It was clarified that the respondents would not be entitled to claim any equities based on such works. It was the applicant's case that the road was laid during the pendency of the suit based upon an interim order made by the Court.

4. Now that the suit has been dismissed, it would not be proper to grant any injunction as prayed for in clause (A) of the civil application. So also, no case is made out to direct the respondents to deposit any amount as prayed for in clause (B) of the civil application.

5. At the highest, the interim relief which was to operate by virtue of this Court's order dated 15.10.2020 in Appeal From Order No.6/2020 can be continued pending the disposal of this appeal. Accordingly, the same is continued. It is clarified that the works undertaken by the respondents would be subject to the final orders in this appeal and further the respondents would not be entitled to claim any equities for the work already done.

6. The civil application is disposed of in the above terms without any order for costs.

M. S. SONAK, J.

NITI K
HALDANKAR

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