

Amrut

**IN THE HIGH COURT OF BOMBAY AT GOA**  
**CIVIL APPLICATION NO. 48 OF 2022**  
**IN**  
**FIRST APPEAL NO. 54 OF 2022**

CHIPTRAXX A PROPRIETARY CONCERN,  
REP. BY PROP, CARLOS AUGUSTO  
NORONHA

... Applicant

***Versus***

JOAQUIM CATARINA FIGUEIREDO  
GRACIAS AND 7 ORS

... Respondents

Mr. S. G. Desai, Senior Advocate with Mr. Tejas Rane, Advocate for the Applicant.

Mr. Amey Kakodkar, Advocate for Respondent No.1.

Mr. A. F. Diniz, Senior Advocate with Ms. Amanda Godinho, Advocate for Respondent Nos. 2 to 8.

**CORAM:                      M. S. SONAK &**  
**BHARAT P. DESHPANDE, JJ**

**DATED :                      28<sup>th</sup> FEBRUARY 2023**

**P.C.:**

**1.**        Heard Mr. S. G. Desai, learned Senior Advocate who appears along with Mr. T. Rane for the Applicant, Mr. Amey Kakodkar, learned counsel for Respondent No.1 and Mr. A. F. Diniz, learned Senior Advocate who appears along with Ms. A. Godinho for Respondent Nos. 2 to 8.

2. By order dated 15.12.2018, pending the final disposal of the suit in which the impugned decree has been made, the trial Court had made the following order in paragraph 40:-

*“40. Pending hearing and disposal of the suit, the defendants are hereby restrained from entering into any agreement with the third parties with respect to the plots bearing nos. 1 to 12, 22-27 and 60 to 64, corresponding to survey nos. 269/2-A, 269/2-B, 269/2-C, 269/2-D, 269/2-E, 269/2-F, 269/2-G, 269/2-H, 269/2-I, 269/2-J, 269/2-K, 269/2-L, 258/1-A, 258/1-B, 258/1-C, 258/1-D, 258/1-E, 258/1-F, 258/1-AM and 258/1-AN respectively.”*

3. Mr Diniz, learned Senior Advocate for Respondent Nos. 2 to 8 points out that the position would differ now that the suit itself has been dismissed. He submits that alienation may be permitted because the normal rule of *lis pendens* would apply.

4. In terms of the interim order which was operating during the pendency of the suit, there was no prohibition on the Respondents from dealing with the suit property except the portions referred to in paragraph 40 of the trial Court's order dated 15.12.2018. Therefore, in the interests of justice, we think that in case the Respondents propose to sell, transfer or convey or otherwise create any third-party rights in the portions referred to in paragraph 40 above, then, they should seek prior permission of this Court. If such an application is made, the Court will consider the same in accord with law. At that

stage, Mr Diniz's contention about imposing some terms upon the Appellant would also be considered.

**5.** Accordingly, by way of interim relief, we order that the Respondents, if and when they propose to sell the portions of the suit property referred to in paragraph 40 of the trial Court's order, they should seek prior permission from this Court by filing an appropriate application. In so far as dealing with the rest of the suit property is concerned, there is no bar.

**6.** The Civil Application No. 48 of 2022 is disposed of in the above terms. There shall be no order for costs.

**BHARAT P. DESHPANDE, J**

**M. S. SONAK, J**

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