

Niti

**IN THE HIGH COURT OF BOMBAY AT GOA**

**APPEAL FROM ORDER NO.56 OF 2019**

CAMILO CAETANO  
AGNELO D'SOUZA & 12 ORS. ... APPELLANTS

***Versus***

JOSEPH ROSA DE LIMA  
FERNANDES AND 3 ORS. ... RESPONDENTS

Mr Shane Gomes Pereira, Advocate for the Appellants.  
Mr S.S. Kantak, Senior Advocate with Mr P. Talaulikar and  
Ms Neha Kholkar, Advocates for Respondent No.4.

**CORAM: M. S. SONAK J.**

**DATE: 19<sup>th</sup> OCTOBER 2023**

**ORAL ORDER :**

**1.** Heard Mr Shane Gomes Pereira for the appellants. Mr Kantak, learned Senior Advocate appears along with Mr Talaulikar and Ms Kholkar for respondent no.4.

**2.** The challenge in this appeal is to the judgment and order dated 18.05.2019 by which the Trial Court has declined interim relief to the appellants/plaintiffs to restrain the defendants from obtaining an Occupancy Certificate in respect of the suit building or creating third-party rights therein in any manner.

**3.** Mr Kantak pointed out that even before the suit was instituted, an Occupancy Certificate was already issued and even third-party

rights in respect of the apartments in the suit building had been created.

4. The Trial Court, in the impugned order, held that the appellants have failed to make out a *prima facie* case and, in any case, because the project was a complete balance of convenience was also against the grant of any injunctive relief.

5. Considering the above position, no case is made out to interfere with the impugned order in this appeal.

6. However, it is clarified that any of the observations in the impugned order will not influence the Trial Court while disposing of the suit on merits. The suit will have to be disposed of on its own merits and in accordance with law after considering the evidence that the parties are leading before the Trial Court. Further, it is clarified that the transactions carried out by the defendants would be subject to final orders in the suit.

7. With the above clarification, this appeal is disposed of.

8. There shall be no order for costs.

**M. S. SONAK, J.**

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HALDANKAR

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