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IN THE HIGH COURT OF BOMBAY AT GOA

**APPEAL FROM ORDER NO.690 OF 2021 (F)
WITH
CIVIL APPLICATION NO.691 OF 2021 (F), MISC.CIVIL
APPLICATION NO.193 OF 2021**

APPEAL FROM ORDER NO.690 OF 2021 (F)
ULHAS DATTU NAIK DESSAI AND 3 ORS ... APPELLANTS
Versus
ADISON DCRUZ AND 16 ORS ... RESPONDENTS

**WITH
CIVIL APPLICATION NO.691 OF 2021 (F)**
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**WITH
MISC.CIVIL APPLICATION NO.193 OF 2021**
ULHAS DATTU NAIK DESSAI AND 3 ORS ... APPLICANTS
Versus
ADISON DCRUZ AND 16 ORS ... RESPONDENTS

Mr A.D. Bhobe with Ms S. Shaikh, Advocates for the Appellants.
Mr Ivan Santimano, Advocate for Respondent Nos.1 and 2.

CORAM:- VALMIKI SA MENEZES, J.

DATED :- 4th January, 2024

P.C.:

1. This appeal impugns the order dated 22.01.2021 passed by the Adhoc Civil Judge Senior Division, A-Court at Quepem; by the impugned order, the Trial Court has granted an ex-parte ad interim order of temporary injunction restraining the Defendant Nos. 7 to 10 from carrying out any further construction in the suit property bearing Survey No.77/1-A, B and C of Village Balli as described in para 4 of the plaint.

2. After hearing the matter for some time, it transpires that before the Trial Court, the pleadings of the parties are complete and during the course of the hearing of the application for temporary injunction on its merits, the Plaintiffs filed an application under Order 39 Rule 2A CPC alleging that the contesting Defendant Nos.7 to 10 who are the Petitioners before this Court have committed contempt of the impugned order by proceeding with the construction in the suit property. It is further reported by the Respondents that the Trial Court is in the process of recording evidence in this contempt application, as a consequence of which the application for temporary injunction at Exhibit D-5 of the record of the Trial Court is still pending disposal.

3. Under Rule 3A of Order 39 CPC, the Trial Court is mandated to dispose of an application for temporary injunction within a period of 30 days from the date on which it had granted the ex-parte injunction. As on the present matter, the ex-parte order of temporary injunction was granted by the Trial Court on 22.01.2021, and contrary to the mandate of Rule 3A of Order 39 CPC, the application for temporary injunction is still pending disposal even after a period of almost three years.

This being the situation before the Trial Court and considering the long period of time for which the application is pending, it would be appropriate to direct the Trial Court i.e. the Court of Civil Judge Senior Division, Quepem to dispose of Exhibit D-5 on the file of

Special Civil Suit No.02/2021/A.

4. Considering the above situation, it is fairly conceded by Shri A.D. Bhobe for the Appellant herein that pressing the present appeal would not serve any purpose if no appropriate direction is given to the Trial Court to dispose of the application for temporary injunction at Exhibit D-5. In that view of the matter, I pass the following order.

5. The Court of Civil Judge Senior Division at Quepem is hereby directed to dispose of the application for temporary injunction at Exhibit D-5 in Special Civil Suit No.02/2021/A positively by 29.02.2024. In that view of the matter, the present appeal stands disposed of in the above terms.

Needless to state that the Trial Court shall dispose of the application at Exhibit D-5 being uninfluenced by any of the findings in the impugned order dated 22.01.2021.

6. In view of the disposal of the appeal, Civil Application No.691/2021 (F) does not survive and is accordingly disposed of.

7. In view of the disposal of the appeal, Misc. Civil Application No.193/2021 also stands disposed of.

VALMIKI SA MENEZES, J.