



Sonam

IN THE HIGH COURT OF BOMBAY AT GOA

**WRIT PETITION NO. 512 OF 2025
WITH
CIVIL APPLICATION NO. 75 OF 2025**

SEBY PEREIRA AND 3 ORS ... PETITIONERS

Versus

JUSTINA PICARDO AND ANR. ... RESPONDENTS

Mr. Nigel Da Costa with Mr. Vineet Surlaker, Advocates for the
Petitioners.

Mr. Abhijeet Gosavi with Ms. S. Shirgaonkar, Mr. G. Kerkar
and Mr. L. Orkonkar, Advocates for the Respondents.

CORAM:- VALMIKI MENEZES, J.

DATED :- 23rd December, 2025

ORAL ORDER:

Registry to waive office objections and register the
matter.

2. The present Writ Petition, in which the Petitioners are the
original Plaintiffs in a suit, challenges order dated 06.12.2025
passed in a Miscellaneous Appeal. The District Court has
dismissed the Petitioner's Appeal against an order dated
15.05.2025 passed by the Civil Court rejecting the Plaintiff's
application for temporary injunction.

3. The short controversy in this matter is whether two Courts, whose orders are challenged herein have correctly appreciated, whether the Plaintiffs/Petitioners herein have made out a prima facie case for grant of an order of temporary injunction to restrain the Defendants from carrying out any further construction in the plot purchased by them under Section 16 of the Mundkar Act.

4. From the pleadings of the parties, it is clear that the Plaintiffs have purchased a plot of land surrounding their dwelling house, in a Purchase Proceedings under Section 16 of the Mundkar Act. Contiguous to this parcel of land, roughly within 2 mtrs. of the North Eastern border of the dwelling house lies the area purchased by the Defendant, also by Purchase Proceedings under Section 16. The dwelling house of the Defendants lies within the area purchased by them.

5. Further, according to the Plaintiffs, the Defendant obtained permission for alteration of their dwelling structure, which was granted by the concerned Panchayat on 06.01.2025. By this permission, the defendants were permitted to carry out the alteration of their single dwelling unit, to the extent of replacing the roof tiles with an RCC slab in terms of the resolution of the Panchayat. The permission was granted in terms of a plan which was submitted and accepted by the Panchayat. Both the Courts i.e. the Trial Court and the

Appellate Court, have concluded that the permission granted does not in any manner encroach upon any of the rights of the Plaintiffs.

6. Needless to state, the Plaintiffs have also not thrown any challenge to the permission granted to the Defendants by seeking any relief to challenge these permissions.

7. The grievance of the Plaintiffs is found at para 15 and 16 of the plaint, stating that Defendants have constructed in their property a structure, without maintaining a setback and further that the construction has encroached on the Plaintiffs' property by about 1 mtr. A plan has been annexed by the Plaintiffs depicting the encroachment. Apart from photographs and a complaint made to that effect to the panchayat, these are the only materials placed on record to claim an order of injunction.

8. The Trial Court considered this material and has concluded that, based on the averments in the plaint, the photographs produced, and the plan on record, there is no evidence on record to enable the Court to ascertain with clarity as to whether there is an encroachment as claimed by the Plaintiffs. The Trial Court has made reference to both the purchase orders and has considered the Survey Record, the permission granted for construction to the Defendants and the two plans prepared by the Mamlatdar in the Purchase Proceeding under Section 16 of that Act. The findings are

therefore based upon material on record, and cannot be termed as perverse or passed without considering the material on record or that the finding are extraneous to the material on record.

9. The Appellate Court, though not call upon to reappraise all this material, has in fact reappraised all the documents on record and arrived at the conclusion that there is a valid permission granted to the Defendants. It has also arrived at a conclusion, based upon the inspection report of the panchayat that the panchayat has chosen not to take any action, since it has concluded that there is no encroachment of the construction at site in any manner contrary to the permission granted. The Appellate Court has therefore returned concurrent findings and neglected the Appeal.

10. It may be noted that apart from filing a complaint before the Panchayat, there appears to be no further inspection or action taken by the Plaintiff, calling upon the Town Planning Department to inspect the site based on the complaint made by the Plaintiffs. If the allegations in the complaint were to be taken to their logical end, it would be imperative that the Plaintiffs make a complaint to the TCP department, since the argument now raised is that the construction at the site partakes, not of repair or re-roofing work, but partakes of an entire reconstruction activity which is impermissible.

11. Considering all these facts and considering that there are concurrent findings by two Courts, this is not a fit case for interference with the supervisory jurisdiction of this Court. It is a well-settled proposition of law that in cases where the temporary injunction has been refused, and such order is confirmed in Appeal, a Writ Court cannot reappreciate the entire case, and come to a different conclusion, or pass an order in the manner as if it were sitting in Appeal over these orders.

12. Needless to state, the findings arrived at by the Courts being prima facie in nature, this does not preclude the Petitioners from taking such proceedings, as they may so advise, to question the permissions granted by the panchayat or to take up the proceedings before the TCP Department under the ~~Regularisations Act.~~ **Goa Land Development and Building Construction Regulations, 2010.**

13. The Judgment of *Fatima w/o Caetano Joao V/s Village Panchayat, Mercedes*¹, cited by the Petitioner would not apply on facts. The case of *Fatima Joao* (supra) was a case where the plaintiff claims a breach of easmentary right of way and breach of easement of light and air by not keeping the required setback. It is in those circumstances that this Court held that an injunction can be claimed before a Civil Court.

14. In this view of the matter, no case is being made out for interference with the writ jurisdiction of this Court. Writ

¹ 2001 (1) Mh. L.J.

Petition is dismissed with no order as to costs. Civil Application
No. 75 of 2025 also stands disposed of.

VALMIKI MENEZES, J.