Suzana

# IN THE HIGH COURT OF BOMBAY AT GOA

## APPEAL FROM ORDER NO.50 OF 2026

VITHU SHIVA PAL AND ANR., ... APPELLANTS
Versus
SHREE. DEVI SHANTADURGA SAGODKARIN CHARITABLE AND RELIGIOUS TRUST REP BY ITS ATTORNEY AND 25 ORS., ... RESPONDENTS

Mr. J. A. Lobo, Advocate for the Appellants.

**CORAM:- VALMIKI MENEZES, J.**

**DATED :- 30th October, 2026**

ORAL ORDER:

1. Heard Mr. J. A. Lobo, learned Advocate for the Appellants.

2. On perusing the impugned Order, this is not a case for interference in appellate jurisdiction under Order 43 Rule 1(r) CPC.

3. The Plaintiff filed Special Civil Suit No.22/2020/A before the Civil Judge, Senior Division, 'A' Court, Bicholim, claiming to be the titleholder of the property under Survey Nos.36/4 and 36/3 of Village Bordem, Bicholim. This property admeasures about 39,100 sq. mtrs, and the Plaintiff claims original title through the inscription recorded in the name of Pundolica Goneca Pol, who is his great-grandfather. The trial Court has perused the Plaintiff's

title documents and the certificate produced from the Survey Department to correlate the original title with the claim over the suit property under the aforementioned survey records. The trial Court has taken a view that the documents on which the Plaintiff relied upon would be required to be proved in evidence before the claim of title is proved. The trial Court proceeded on the basis of the presumption under Section 105 of the Land Revenue Code to hold that the claim of the occupants in the survey records, being that of the Defendant No.1-Devasthan and subsequent purchasers of plots, some of whom are arrayed as Defendants in the suit, it ultimately held that the Plaintiff had not, at the prima facie stage, made out a case for grant of temporary injunction to restrain the Defendants from creating third-party rights or alienating any part of the suit property.

4. The trial Court has also considered the fact that the Plaintiff was a component of the Communidade Bordem, which was a defendant in an earlier suit for title filed by the Devasthan-Defendant No.1, in which consent terms were filed, and a decree was passed. The fact remains that the Plaintiff has not challenged this decree on the ground that he was not a party to that suit. However, the trial Court has considered the fact that the Plaintiff was a component of the very same Communidade and need not react to the consent terms being filed in the suit.

5. This is not a case where the trial Court has not considered the material on record but has arrived at certain prima facie conclusions after considering the documents placed by the party. The view taken by the trial Court at the prima facie stage cannot be termed as one which is perverse or not based upon the material on record.

6. For all the aforementioned reasons, there is no cause to interfere with the impugned order. Suffice it to state that the suit is now at the stage of written statements of some of the newly impleaded Defendants being taken on record. The trial Court shall endeavour to complete the initial stages in the shortest possible time, to frame issues thereafter and record the Plaintiff's evidence, preferably within three months from today. Considering the Suit is of the year 2020, the trial Court is requested to dispose of the Suit after recording evidence of the parties by 31.12.2026.

7. The Appeal stands dismissed with the above observations.

**VALMIKI MENEZES, J.**

Signed by: MARIA SUZANA REBELLO
Designation: Personal Assistant
Date: 30/10/2026 16:11:52