

Meena

IN THE HIGH COURT OF BOMBAY AT GOA

**APPEAL FROM ORDER NO.1 OF 2024
WITH
CIVIL APPLICATION NO.3 OF 2024**

APPEAL FROM ORDER NO.1 OF 2024

THE SOCIETY OF TARI FAMILY-BORIM
THR. ITS PRESIDENT TULSHIDAS MONO
NAIK

... APPELLANT

Versus

CHANDRAKANT SADA NAIK @
CHANDRAKANT SADANAND BORKAR AND 42
ORS

... RESPONDENTS

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Mr. J. Godinho, Advocate for the Appellant.

CORAM:- VALMIKI MENEZES, J.

DATED :- 16th April, 2026

P.C.:

1. This is an appeal against an order dated 11.04.2023 rejecting the Appellant/Original Plaintiff's application for a temporary injunction in Special Civil Suit No.7/2014/A. On going through the impugned order, I find absolutely no reason to interfere with the same, since the Court

has considered the prima facie case and concluded that the same has not been made out by the Plaintiff at that stage to grant an interim order.

2. On perusal of the interim relief and more particularly paragraphs 31 and 32 thereof, the trial Court has, after considering the judgment passed in an earlier suit of the year 1969, filed by the Society, the persons claiming to be members of the family, of which the plaintiff claims to be a representative (Plaintiff society registered in 2010); the trial Court has then considered the judgment in appeal of the year 1972 and has taken up a view that prima facie, the Plaintiff has not made out any case for grant of injunction.

3. The Plaintiff has sought a declaration that the suit property belongs to the society of the family of Tari's of Borim. It is on this basis that the plaintiff claims a temporary injunction to restrain the Defendants from creating any third-party rights in the suit property.

4. The view taken by the trial Court appears to be a plausible view based on the material produced before it. It is settled law that in an Appeal from Order under Order 43 Rule 1, the Appellate court shall not take a different view from the one taken by the trial Court, merely because such a view is possible. Interference with an interim relief would be only on the ground that the order is totally unsustainable or so perverse and contrary to the material before the trial Court, and not

otherwise. In the present case, the trial Court has considered the documents on record and arrived at a conclusion which does not call for any interference. In addition, note has been taken by this Court of the fact that the suit was filed in the year 2014, the impugned Award was passed on 26.10.2022, dismissing the application for temporary injunction, and the appeal was filed in the year 2023 but was not pressed for until today. Consequently, there has been no order of injunction since the year 2014. There would be no justification for granting any relief today. The suit is now being heard, and the Plaintiff's evidence is being recorded. Consequently, for the above reasons, the appeal stands rejected. No costs.

5. In view of the rejection of the appeal, Civil Application No.3 of 2024 also stands disposed of.

VALMIKI MENEZES, J.