



Suzana

IN THE HIGH COURT OF BOMBAY AT GOA
WRIT PETITION NO.86 OF 2026

SHREE SAUNSTHA NAGESH MAHARUDRA,
THR. ITS ATTORNEY RAKESH KARMALI ... PETITIONER
Versus
RAJENDRA SUDHAKAR NAGESHKAR AND 3
ORS ... RESPONDENTS

Mr. Nitin Sardessai, Senior Advocate with Mr. Kabir Sabnis, Advocate for the Petitioner.

Mr. Vivek A. Rodrigues, Advocate (through V.C.) for Respondents.

CORAM:- VALMIKI MENEZES, J.

DATED :- 5th February, 2026

ORAL ORDER:

1. Registry to waive objections and register the matter.
2. The Petitioners have impugned Order dated 27.01.2025, passed by the Civil Judge Junior Division, 'B' Court, Ponda, on an application filed under Section 151 of the Code of Civil Procedure, 1908, at Exhibit D-32 on the file of the trial Court, seeking police protection to enforce the Order of temporary injunction granted by the trial Court on 04.01.2019.
3. According to the averments made in the application, the

Plaintiffs sought police protection to enforce the order of temporary injunction, on the ground that they intended to commence construction of a compound wall, and apprehended interference by the Defendants in the construction work. The trial Court has dismissed the application, observing that the Plaintiffs are yet to obtain a construction licence for the compound wall, further observing that the Plaintiffs are required to seek the Court's permission before commencement of the construction of the compound wall, since such construction activity may alter the nature of the property. The trial Court has further observed that the Plaintiffs were also not permitted to clean the property prior to commencement of such work, since even such an act might change the nature of the suit property.

4. In substance, these observations of the trial Court appear to have been made since the trial Court felt that the Plaintiffs, having obtained an order of temporary injunction, should not proceed to change the nature of the suit property pending the disposal of the Suit.

5. Having granted an order of temporary injunction, and held in its order of 04.01.2019 that the Plaintiffs had not only made out a prima facie case but have complied with all other parameters required for the grant of temporary injunction, the trial Court proceeded to injunct the Respondents from in any manner interfering with the suit property during the pendency of the Suit. In that order, there was no condition set upon the Plaintiffs to maintain the status quo of the property or a

direction not to change its nature or to seek permission of the Court before any activity, including construction activity commence on the suit property.

The observations now passed in the impugned Order at paragraph 11 thereof, directing that the Plaintiffs are required to obtain the Court's permission before it cleans the property or commences any construction work thereon and other observations that no construction should be carried out without obtaining the requisite permissions from the Statutory Authorities, are totally uncalled for. These observations would, in fact, operate as adding conditions to the Order of grant of temporary injunction passed on 04.01.2019.

6. The above observations would be justification enough for me to set aside the impugned Order on this count alone. However, during the course of hearing this matter, since it was submitted by the learned Senior Advocate, Mr. Sardesai, appearing for the Petitioner that the Petitioner has in fact applied for technical approval from the Town Planner, Ponda on 04.12.2024, and has received a communication dated 20.12.2024 stating the Officers of the Town Planning Department would visit the site on 31.12.2024, it would be appropriate that the Petitioners make a fresh application to the Court placing these facts before the trial Court. Learned Senior Advocate further submits that the approval sought is for the construction of a compound wall along the periphery/boundary of the suit property bearing Survey No.282/3 of Village Bandora, which, if granted, would permit the

Petitioners/original Plaintiffs to construct such wall after obtaining the requisite construction licence from the concerned Panchayat or if such approvals and licences are obtained, for seeking protection for carrying out the works pursuant to the licences granted. It was further submitted that though this fact was not clearly pleaded in the application, the real need of police protection was to ensure that the Officers of the Town Planning Department, who were due to visit the site for inspection, may face some opposition from the Respondent and that there may be a breach of the order of temporary injunction granted by the Court.

7. If this be so, it would be appropriate that the Petitioners apply through a fresh application to the trial Court seeking police protection to enforce the Order of temporary injunction dated 04.01.2019 during the period the Officers of the Town Planning Department would notify their visit or during the period when such Officers of such other Statutory Bodies including the Panchayat, when applications are made for permissions, would visit the suit property. Such an application would now be presented to the trial Court, and the trial Court shall decide the same on its own merits and consider the observations made in paragraph 5 above. Clearly, whilst deciding such an application, there can be no fetters put on the Plaintiff or conditions that the Plaintiffs require permission of the Court to develop its own property, provided the same is done following the statutory laws.

Considering these facts, and since the Petitioners are now going

to apply for police protection afresh, there would be no case for interference with the impugned Order even though the reasons applied in the Order, whilst dismissing the application, may not be within the bounds of law. The Petition is, accordingly, disposed of with the above observations.

8. Needless to state, if the Petitioners apply for fresh police protection, the trial Court shall dispose of this application, considering the nature of the application, preferably within a month of the filing of the same.

VALMIKI MENEZES, J.