

IN THE HIGH COURT OF BOMBAY AT GOA.

LD-VC-CW-353/2020

WITH

LD-VC-OCW-190/2020.

Sadiq Sheikh and anr

...Petitioners.

Vs

Salgaonkar Engineering Pvt. Ltd.

...Respondent.

Shri J. A. Lobo, Advocate for the petitioner.

Ms. S. Mordekar, Addl. Govt. Advocate for the respondents.

Coram:- DAMA SESHADRI NAIDU, J.

Date:25th November 2020.

P.C.

The appellants are the defendants in the Special Civil Suit No. 26/2020/A before the Civil Judge, Senior Division, at Panaji. Respondent is the plaintiff. As seen from the record, the plaintiff filed the suit for specific performance and injunction. In the plaintiff's interlocutory application, the trial Court granted ex parte injunction. It was on 12.11.2020. That order restrained the appellants from creating any third-party interest over the property pending the suit and also not to interfere with the plaintiff's possession. Aggrieved, the appellants have come before this Court, assailing the ex parte ad-interim order.

2. Shri Kantak, the learned Senior Counsel, asserts that the order is devoid of merits and does not stand even a momentary scrutiny of law. On the other hand, Shri Bhobe, the learned counsel for the respondent, submits that the appellants have challenged an ex parte order. Instead,

they could have appeared before the trial Court and pointed out whatever the legal infirmity they felt present in the order.

3. After the counsel's elaborate submissions, I have suggested that the appellants may as well approach the trial Court and invite an order on merits. In response, Shri Kantak, the learned Senior Counsel, has fairly agreed. But he has submitted that the trial Court ought to consider the appellants' application, perhaps under Order 39 Rule 4 of CPC, expeditiously within a time frame.

4. Under these circumstances, I dispose of this Appeal from Order, without adverting to the merits. As a result, if the appellants file either a counter in the interlocutory application or a specific application under Order 39 Rule 4 of CPC, the trial Court will entertain that application on merits and dispose it of expeditiously, preferably, in three months.

The application bearing no. LD-VC-OCW-190/2020 also stands disposed of.

DAMA SESHADRI NAIDU, J.

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