

LD-VC-OCW- 82 -2020
IN THE HIGH COURT OF BOMBAY AT GOA

LD-VC-OCW- 82 -2020
with
LD-VC-OCW- 45 -2020
in
SA No.109-2019

Guilherme Fernandes
aka Gilu Fernandes **Applicant**

V e r s u s

Mariano Francisco Xavier
Luis and others. **Respondents**

Adv. J. J. Mulgaonkar for the Applicant.
Mr S. Usgaonkar, Senior Advocate with Adv. Ms Tanvi Ghanekar for the Respondent nos.1 and 2.

CORAM: DAMA SESHADRI NAIDU, J.
DATE: 25th September 2020.

ORDER:

The respondents in the Second Appeal filed Regular Civil Appeal No.323/2012/F before the Civil Judge, Junior Division, Margao. Through its judgment and decree dated 17/11/2017, the trial Court allowed the suit. Thus, the respondents secured a perpetual injunction. Aggrieved, the appellant filed First Appeal No.15/2017 before the Ad hoc District Judge, FTC-I, Margao, South Goa. Concurring with the trial Court, the Appellate Court dismissed the appeal, through its judgment and decree, dated 30/3/2019. Then the appellant has filed the Second Appeal.

2. Now the applicant has come up with this application for having the impugned judgment and decree stayed or suspended.

3. On 20/6/2020, this Court granted an ex parte interim suspension of the judgment and decree. It was until the disposal of the miscellaneous application.

4. Heard the learned counsel for the applicant/appellant and the learned counsel for the respondents.

5. As seen from the record, the respondents filed the suit and secured an interim injunction until the disposal of the suit. Then the suit was decreed in their favour. In the First Appeal, too, the respondents continued to enjoy the Trial Court's decree. In all, for over a decade, the respondents have enjoyed injunctive relief. Now, after all these years, especially faced by concurrent findings, this Court ought not to suspend the judgment and decree and deprive the respondents what they have enjoyed for over a decade.

6. I, therefore, close this Civil Misc. Application, leaving the parties to the position they had been in when the First Appeal was pending.

Let the matter be listed for a final hearing at the earliest.

DAMA SESHADRI NAIDU, J.

AP/-