

Suchitra

IN THE HIGH COURT OF BOMBAY AT GOA

CIVIL APPLICATION NO.20/2024

IN

SECOND APPEAL NO.8/2024

NANDA VINAYAK MALVANKAR
AND ANR.

... APPELLANTS

Versus

VELDA ESPERANCE PRECIDES
DSOUZA AND 5 ORS.

... RESPONDENTS

Ms Sailee Kenny, Advocate for the Appellants.

Mr Parag Rao with Mr Ajay Menon, Advocates for Respondents
No.1 and 2.

CORAM: M. S. SONAK, J.

DATED: 21st MARCH 2024

P.C.:

1. Heard Ms Sailee Kenny for the appellants and Mr Parag Rao with Mr Ajay Menon for respondents no.1 and 2 (decree holders).
2. The accompanying Second Appeal has already been admitted. This is an application seeking interim reliefs.
3. In terms of the impugned decree, the sale deed favouring the appellants is ordered to be cancelled and the appellants are

directed to restore possession of the suit property to the decree holders.

4. Since, the appeal is admitted, interim relief is due as it will not be appropriate to permit the execution of the impugned decree pending the appeal. However, such interim relief cannot be unconditional.

5. Mr Rao pointed out that if a stay is granted, the appellants will continue to remain in possession of a property admeasuring 1100 sq.mtrs. at Anjuna, Bardez-Goa. He submits that the property is in Anjuna, i.e. the coastal belt of Goa and comes under a very high price. Mr Rao submits that the minimum price per square meter in this area ranges between ₹50,000/- to ₹75,000/-. He therefore submits that the appellants should be directed to deposit at least 50 percent of this amount in the Court.

6. Ms Kenny submits that this is a case where the appellants had purchased the property. She submits that the appellants had constructed a structure in the suit property and refers to some photographs available with her, showing that the structure is dilapidated.

7. The fact that the appellants have allowed the structure constructed by them to dilapidate is not a relevant consideration. By virtue of the interim relief, the appellants would hold on to a valuable property admeasuring 1100 sq.mtrs., and therefore, the interim relief cannot be unconditional.

8. Accordingly, the execution of the impugned decree is stayed subject to the following conditions:-

- a) The appellants will not sell, transfer, alienate or otherwise part with possession of the suit property;
- b) The appellants will deposit in this Court on or before the 5th day of each month an amount of ₹50,000/-;
- c) In case of any three non-consecutive defaults, this interim relief shall stand vacated and the appellants will have to put the decree holders in possession of the suit property without requiring them to go in for execution.

9. Civil Application No.20/2024 is disposed of in the above terms without any order for costs.

M. S. SONAK, J.