

Suchitra

IN THE HIGH COURT OF BOMBAY AT GOA

APPEAL FROM ORDER NO.41/2019

**RAJESH ANAND CHODANKAR
WALKE AND ANR.** ... APPELLANTS

Versus

**MANOJ ANAND CHODANKAR
WALKE AND 13 ORS.** ... RESPONDENTS

Mr S. Deshprabhu, Advocate for the Petitioners.
Mr J. Ramaiya, Advocate for the Respondents.

CORAM: **M. S. SONAK, J.**

DATED: **12th JANUARY 2024**

P.C.:

1. Mr S. Deshprabhu appears but states that he wishes to withdraw appearance on behalf of the appellants.
2. From 2019 onwards this matter is pending. Several adjournments have been granted at the request of the learned counsel for the appellants.
3. Mr Ramaiya, learned counsel for the respondents no.1 to 4 points out that this appeal is against the order made by the Trial Court granting injunction or directing maintenance of status quo after recording a *prima facie* finding that the respondents-

plaintiffs were co-owners of the suit property and the appellants were seeking to alienate or otherwise disturb the status quo.

4. Accordingly, the impugned order was perused. The impugned order indeed records findings about co-ownership. The defence about the defendant no.1 having purchased the plot of 264 sq.mtrs. out of his exclusive earnings was rejected based upon the *prima facie* material on record. The Court has observed that the only sale deed on record concerns the entire suit property admeasuring 686 sq.mtrs. and there is no separate sale deed regarding the plot of 264 sq.mtrs. which the defendant no.1 claimed was purchased by him through his exclusive earnings.

5. There is no error of jurisdiction or perversity in the impugned order. Adjourning it time and again will therefore serve no purpose.

6. For all the above reasons, this appeal is dismissed without any order for costs. However, it is clarified that the observations in the impugned order or for that matter the present order are only *prima facie* and in the context of deciding applications for interim relief. Therefore, such observations need not influence the Trial Court while disposing of the suit finally on its own merits and based upon the evidence that the parties may choose to lead before the Trial Court. Indeed, the suit will have to be finally disposed of on merits and in accordance with law without being influenced by such observations.

7. With the above observations this appeal is disposed of.
There shall be no order for costs.

M. S. SONAK, J.