

Niti

IN THE HIGH COURT OF BOMBAY AT GOA

**CIVIL APPLICATION NO.19 OF 2023
WITH
CIVIL APPLICATION NO.18 OF 2023**

**CIVIL APPLICATION NO.19 OF 2023
IN
SECOND APPEAL NO.13 OF 2023**

BAPTISTA FRNANDES AND ANR ... APPLICANTS
Versus
SADASHIV AZGAONKAR (DEC) THR. HIS
LRS. AND 4 ORS ... RESPONDENTS

**WITH
CIVIL APPLICATION NO.18 OF 2023
IN
SECOND APPEAL NO.12 OF 2023**

BAPTISTA FERNANDES AND ANR ... APPLICANTS
Versus
SADASHIV AZGAONKAR (DEC) THR. HIR
LRS. AND ANR ... RESPONDENTS

Mr Shivan Desai with Ms M. Viegas, Advocates for the Applicants.
Mr J.J. Mulgaonkar with Ms S. Parulekar, Advocate for Respondents.

CORAM:- M. S. SONAK, J.

DATED :- 25th April, 2024

P.C.:

Both these Second Appeals have been admitted.

2. By way of ad interim relief granted on 12.10.2021, parties were directed to maintain status quo.
3. The applicants are the original defendants before the Trial Court.

The Trial Court had dismissed the suit seeking access through the applicants' property. The First Appellate Court has now decreed the suit.

4. Mr Desai submits that opening of an access, at this stage, would involve demolition of a wall. This position is disputed by Mr Mulgaonkar. Still, considering that this is a case of reversal of the Trial Court's decree by the First Appellate Court and the fact that both the appeals have been admitted on substantial questions of law, it would be appropriate if the ad interim order granted on 12.10.2021 is confirmed and directed to operate during the pendency of the two Second Appeals. It is ordered accordingly.

5. The civil applications no.18 and 19 of 2023 are disposed of in the above terms. However, a copy of this order to be retained in the main Second Appeal files.

M. S. SONAK, J.