

(2011) 07 BOM CK 0013
In the Bombay High Court
Case No : Writ Petition No. 577 of 2010

Smt. Nalini alias Indira Waman Bhat and Shri Vinay Waman Bhat Represented by their constituted attorney Shri Ramkrishna N. Phal Dessai APPELLANT

Vs

Smt. Bharati Vassudev Bhat and Shri Ramkrishna alias Bhushan Vassudev Bhat RESPONDENT

Date of Decision : 12-07-2011

Acts Referred:

Constitution of India, 1950 — Article 227

Citation : (2011) 07 BOM CK 0013

Hon'ble Judges : A.P. Lavande, J

Bench : Single Bench

Advocate : R.G. Ramani, for the Appellant; S.D. Lotlikar with Ms. Pai Kir, for the Respondent

Judgement

A.P. Lavande, J.—Heard Mr. Ramani, learned counsel for the petitioners and Mr. S.D. Lotlikar, learned Senior Counsel for the respondents. Rule. By consent of the learned counsel for the parties heard forthwith.

2. By this petition under Article 227 of the Constitution of India, the petitioners take exception to the judgment and order dated 5/4/2010 passed by the District Judge-2, South Goa, Margao in Miscellaneous Civil Appeal No. 15/2010 by which the appeal preferred by the respondents herein against the order dated 23/12/2009 passed by the learned Civil Judge, Junior Division, Canacona granting injunction in favour of the petitioners has been set aside.

3. The petitioners are the original plaintiffs in Regular Civil Suit No. 26/2009 filed against the respondents herein seeking relief of declaration and permanent injunction in respect of the property bearing survey No. 3/20 of village Poinguinim, Taluka Canacona. Along with the suit, the plaintiffs filed an application for temporary injunction which was granted by the trial Court. The plaintiffs claim that they are the co-owners of the suit property along with the

defendants. The defendants claim exclusive title to the suit property. The trial Court held in favour of the plaintiffs whereas the Lower Appellate Court has held in favour of the defendants.

4. The only limited interim relief sought by the plaintiffs was that the defendants be restrained from cutting any trees from the suit property.

5. Having regard to the nature of the relief sought, the petition is disposed of in terms of the following order:

The defendants shall not cut tree/trees from the suit property without obtaining permission from the competent authority. In the event the defendants desire to cut any tree/trees from the suit property during the pendency of the suit, the defendants shall approach the Court for necessary directions after obtaining permission from the competent authority and if such an application is filed by the defendants, the Trial Court to decide the same after giving an opportunity of being heard to the plaintiffs.

The petition stands disposed of accordingly with no order as to costs.