

WRIT PETITION NO.91/2003

- 1) Shri Xavier Trindade Conceicao,  
Major, son of Jose T. Conceicao,  
R/o. H.No.699/3,  
Marivel, Donapaula, Panaji, Goa.
- 2) Augustine Rodrigues M.  
S/o. Jose Rodrigues,  
House No.697. .... Petitioners

V/s.

- 1) Shri Carlos Rodrigues,
- 2) Shri Minguel Rodrigues,
- 3) Andrew Rodrigues,
- 4) John Rodrigues,
- 5) Marian Rodrigues,  
All major, all r/o. Marivel,  
Donapaula, Panaji, Goa.
- 6) Civil Judge, Senior Division,  
'A' Court, Panaji, Goa.  
(Deleted by order dated  
25.2.03) ..... Respondents.

Mr. S.S. Kanatak, Advocate for the petitioner.

Mr. R.G. Ramani, Advocate for the respondents.

CORAM : P.V. HARDAS, J.

DATE : 26TH FEBRUARY, 2003.

ORAL JUDGMENT :

Rule. Rule made returnable forthwith. By consent of the parties, the petition is heard for final disposal at the stage of admission.

2. This petition has been filed by the petitioners/original plaintiffs who are aggrieved by the order dated 21.2.2003, passed by the Civil Judge, Sr. Division, Panaji, in Special Civil Suit No.19/03/B, issuing show cause notice to the respondents/defendants, on an application filed by the petitioners under Order 39, Rules 1 and 2 of the Code of Civil Procedure, in Misc. Civil Application No.31/03/B.

3. This Court, by its order dated 22.02.2003 while ordering issuance of notice to the respondents, had granted ad-interim relief in favour of the present petitioners.

4. Mr. R.G. Ramamni, learned Counsel appearing on behalf of the respondents/ Org. defendants states that the respondents had received notice from this Court on 22.2.2003 at 2.00 p.m. He further states that the respondents would maintain status quo till the decision of the application filed by the petitioners/plaintiffs under Order 39, Rules 1 and 2. Mr. S.S. Kantak, learned Counsel appearing for the petitioners has placed on record a photograph, depicting the construction which has been done by the respondents till receipt of notice of this Court on 22.2.2003. The said photograph is taken on record and

marked by letter "A". Mr. Ramani, on instructions, states that the respondents accept the stage of construction as is depicted in the photograph "A".

5. In view of the submissions of the learned Counsel for the parties, the matter is remitted to the learned trial Court for deciding the application under Order 39, Rules 1 and 2 C.P.C. The statement made by learned Counsel on behalf of the respondents/defendants that they would maintain status quo in respect of the construction as on 22.2.2003 and as is depicted in the photograph marked "A" is accepted, as an undertaking. The respondents also undertake to maintain status quo till the decision of the application of the petitioners/plaintiffs under Order 39, Rules 1 and 2.

6. In view of this, the writ petition is finally disposed of with direction to the learned trial Court to decide the application filed by the petitioners/plaintiffs under Order 39, Rules 1 and 2 and the respondents undertake to maintain status quo as on 22.2.2003. Rule made absolute in the above terms, with no order as to costs.

P.V. HARDAS, J.

ssm.