

IN THE HIGH COURT OF BOMBAY AT GOA

MISC.CIVIL APPLICATION NO. 701 OF 2003

CONFRE DE FABRICA DA CAPELA DE
N.SENHORA DE GUADAL

....Applicants

Versus

MAHAMAY TEMPLE UTSAV & MEDICAL AID
TRUST & 2 ORS.,

....Respondents

SHRI S. KARPE, SHRI SUDIN M.S. USGAONKAR

Coram:- A.M.KHANWILKAR, J.

Date:- 18th December, 2003

P.C.:

Heard both sides. It is not in dispute that no interim relief was granted by the trial Court during the pendency of the suit, which order was confirmed in the appeal right up to this Court.

Indeed, the suit has now been finally disposed of and finding on relevant issue of possession is recorded against the applicant. Be that as it may, in view of the affidavit now filed before me, in particular paragraphs 15 and 16 thereof, I see no reason to grant injunction as prayed for in this application.

2. Paragraphs 15 and 16 of the affidavit which are in the nature of undertaking given to the Court read thus :-

"15. It is stated that the respondent

no.1 has no plans to do any further cutting or excavation, hence the question of causing any damage or waste or changing the nature of the suit property does not arise.

16. Relating to the relief seeking restraint or alienation of the suit property, the same is not available now this Hon'ble Court having once declined to grant the same by order dated 23/03/2001. Also all the plots except one have already been sold. The plot holders are free to construct houses on the plots purchased. So also respondent no.1 is free to sell the last plot and complete the work of development as per the approved plan."

The respondents will be bound to observe that position as stated in the affidavit till the disposal of the appeal and no activity which would breach the above position be undertaken, save and except with prior permission of the Court. Needless to mention that any third party rights or interest created by the respondents in the suit property will be subject to the outcome of the Appeal.

Application disposed of on the above terms.

A.M.KHANWILKAR, J.