



Suzana

IN THE HIGH COURT OF BOMBAY AT GOA

**APPEAL FROM ORDER NO.37 OF 2023
WITH
CIVIL APPLICATION NO.140 OF 2023**

APPEAL FROM ORDER NO.37 OF 2023

DUNAGIRI FOUNDATION FOR HIMALAYAN
HERBAL RESEARCH AND YOGIC STUDIES
REP BY AUTH. SIG. VIVEK DEWAN

... APPELLANT

Versus

SITABAI SITARAM PEDNEKAR AND 7 ORS

... RESPONDENTS

WITH

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... RESPONDENTS

Mr. Ajay Menon, Advocate with Ms. Vaishali Mahato and Mr.
Balkrishna Thali, Advocate for the Appellant.

CORAM:- VALMIKI MENEZES, J.

DATED :- 22nd October, 2026

P.C.

This is an Appeal against the order dated 11.05.2023 passed by the Civil Judge, Senior Division 'B' Court at Mapusa, rejecting the Appellant/original Plaintiff's application for temporary injunction. The temporary injunction, sought by the Plaintiff in the suit filed under Section 6 of the Specific Relief Act during the pendency of the suit, was for restraining the Defendants from creating any third

party rights over the suit property, which is an open land bearing Survey No.under no. 266/4 of village Arambol.

2. The Suit under Section 6 came to be filed by the Plaintiff on the case that possession of the aforementioned suit property was under a Deed of Lease dated 02.06.2014; the lease was for a period of 30 years, and the Plaintiff regularly paid the lease to the Defendants until the Plaintiff was dispossessed on 18.12.2020. The suit came to be filed on 14.01.2021, and though an application for interim relief is pending since that date, it came to be dismissed on 11.05.2023, more than two years after the application/suit was filed.

3. After considering the findings of the trial Court as to whether the Plaintiff has made out a prima facie case for grant of injunction, and considering the narrow scope of the Appellate jurisdiction under Order 43 Rule 1(r) CPC, I am of the opinion that this is not a fit case for interference in the impugned order. The suit itself, for seeking recovery of possession under Section 6, was filed a month after dispossession; the application for temporary injunction came to be dismissed on 11.05.2023, with no interim orders operating at any point in time. The present Appeal came to be filed on 21.06.2023 and had been under office objections in this Registry. During this entire period, no attempt was made to seek interim relief. As a consequence of the Plaintiff's conduct, six years have

gone by since the suit was filed with no interim relief being granted by any Court or being pressed before this Court. On this ground alone, I am inclined to reject the Appeal.

4. Be that as it may, after perusing the impugned Order, even otherwise, there are triable issues, and the trial Court has noted that prima facie, the Plaintiff's right to be in possession itself has been contested by the Defendants, on the premise that the possession was returned to the Defendants by the Plaintiff Foundation.

5. On the basis of all the aforementioned facts, this will not be a fit case to exercise jurisdiction under Order 43 Rule 1(r) CPC. Consequently, I dismiss the Appeal.

6. As a consequence, the Civil Application No.140 of 2023 also stands disposed of. No costs. Since the suit has been filed under Section 6 of the Specific Relief Act and is pending from the year 2021, the learned Civil Judge dealing with the suit is requested to dispose of the suit after recording evidence, preferably by 01.05.2027.

VALMIKI MENEZES, J.