



Suchitra

IN THE HIGH COURT OF BOMBAY AT GOA

APPEAL FROM ORDER NO.6/2024

1. MR VILAS SURYAKANT PARVATKAR
son of late Suryakant Laxman Parvatkar, 78
years of age,

2. MRS SAROJA VILAS PARVATKAR
Wife of Vilas Suryakant Parvatkar, 61 years of
age,

Both residents of Mullos Paroda, Salcete - Goa.

3. SHRI SUHAS SURIACANTA
PARVATKAR, son of late Suriacanta Locximona
Parvatkar alias Suryakant Parvatkar, 74 years of
age,

4. MRS SHOBHANA PARVATKAR
Wife of Suhas Parvatkar, 73 years of age,

Both residents of Paroda, Salcete Goa.

5. SHRI PRADIPA ALIAS PRADIP ALIAS
PRADEEP SURYACANTA PARVATKAR
son of late Suriacanta Locximona Parvatkar,
alias Suryakant Parvatkar, 71 years of age,

6. MRS NITA ALIAS NEETA KESHAV
PARVATKAR, wife of Pradipa alias Pradip
Parvatkar. 69 years of age,

Both r/o Mullos, Paroda, Salcete -Goa.

7. MR KIRAN SURYAKANT PARVATKAR
son of late Suryakant Lakshaman Parvatkar, 68
years of age,

8. MRS KALPANA K. PARVATKAR
wife of Kiran Parvatkar, 57 years of age,

Both residents of Parvot, Paroda, Salcete -Goa.

... APPELLANTS

Versus

1. BALKRISHNA VINAYAK PRABHU
DESSAI, son of Vinayak Babani Prabhu Dessai,
aged 59 years, r/o H. No. 62/B, Gauthan,
Cotombi, Quepem – Goa.

2. SHREE CHANDRESHWAR BHUTNATH
SAUNSTHAN, A Devasthan formed under the
Devasthan Regulation (Regulamento das
Mazantias). Parvat Paroda, Goa. 403705,
represented herein by its Attorney, having office
at Cotta, Amona, Quepem - Goa

... RESPONDENTS

Mr Shivan Desai and Ms Riya Amonkar, Advocates for the
Appellants.

Ms Kalpa Govekar, Advocate for Respondent No.1.

Mr C. A. Coutinho, Senior Advocate with Mr Rohan Dessai,
Advocate for Respondent No.2.

CORAM: VALMIKI MENEZES, J.

DATED: 3rd SEPTEMBER 2026

ORAL ORDER :

1. This Appeal under Order 43 of the Code of Civil Procedure assails an order dated 01.04.2023, whereby the Court of the Civil Judge, Senior Division at Quepem, has granted an order of temporary injunction in favour of the Respondent No.1/original plaintiff in Special Civil Suit No.3/2023. The Appellants in the present case are defendant nos.1 to 8 in the Suit whilst the Respondent No.2 is the original defendant no.9, Devasthan/temple of which the original plaintiff claims to be a mahajan.

2. The main grounds of appeal as argued by Shri Shivan Desai for the defendant nos.1 to 8 are as under:-

(a) It was submitted that the findings of the Trial Court are perverse and contrary to the record, more specifically the minutes of the meeting of General Body dated 26.01.2020; it was contended that the recording of the proceedings of the General Body meeting held on that day and the resolutions passed by the General Body of the Respondent No.9 would clearly lead to the conclusion that the mahajans of the temple had resolved to execute a Deed of Exchange with the defendants nos.1 to 9, to transfer the suit property which bears Survey No.6/0 Part of Village Amona in favour of the said defendants and in exchange, defendant no.9 would transfer lands under Survey Nos.79/3, 90/3, 80/1, 80/2, 84/5, 87/8, 88/2 and 88/4 of Village Paroda which belong to the defendant nos.1 to 8 in favour of the defendant no.9. In this manner, it was submitted that the defendant no.9 and the defendant nos.1 to 8 agreed to exchange their respective properties, with the intention that the defendant no.9 would possess and use the property under all the aforementioned survey numbers since it was contiguous to the property wherein the main temple was situated. According to the learned counsel, the Trial Court has not read the minutes and resolutions passed by the General Body in their true perspective, as a complete reading of the same would point to the fact that there was a clear understanding that the suit property under Survey

No.6/0 part would be exchanged for the aforementioned eight survey holdings which belong to the defendant nos.1 to 9.

(b) It was further submitted that since the Devasthan Regulations and more specifically Regulation 249 and the provision of Chapter VI do not prohibit transfers of property either by virtue of sale or by exchange, there was no embargo on the transaction entered into; it was further submitted that the transaction of exchange having been completed, the properties had been transmitted respectively to the defendant nos.1 to 8 on the one hand (Survey No.6/0 part of village Amona) and to the defendant no.9 on the other. The transfer having been completed, there was no cause for the Trial Court to grant a temporary injunction in the nature of the restraint order on the defendant nos.1 to 8 from dealing with the suit property, creating third party rights thereon or carrying out any construction/development works thereon.

(c) It was then contended that the Trial Court has totally failed to consider the fact that the properties of the defendant nos.1 to 8 which were now in possession of the Respondent No.9, had the ancestral house of the defendant nos.1 to 9 standing thereon, which was demolished by the defendant no.9. The defendant no.9 had therefore acted upon the transfer and exercised its right of possession of the suit property. In this view of the matter, it was submitted

that there being no denial of this fact, which is stated at paragraph 23 of the affidavit in reply, the Trial Court ought to have rejected the application at Exh.D-5. Alternately it was argued that the Trial Court placed an embargo on the defendant nos.1 to 9 from exercising their right over the suit property under Survey No.6/0 part during the pendency of the suit, it had to equally direct the defendant no.9 to maintain status quo and cease to carry out any development on the exchanged properties under Survey Nos.79/3, 90/3, 80/1, 80/2, 84/5, 87/8, 88/2 and 88/4 of Village Paroda.

(d) The learned Advocate for the Appellants further submits that the Trial Court has ignored the fact that the Plaintiff and Defendant No.9 have executed a similar transaction in relation to a different property and such a transaction was not denied by either the Plaintiff or the Defendant No.9; the said parties have therefore admitted that the Defendant No.9 had entered into similar transactions, as such could not take up a plea that the transaction of exchange between defendants no.1 to 8 and defendant no.9 was prohibited by the Devasthan Regulations.

3. The impugned order, on the other hand has been supported by the defendant no.9 and the plaintiff who are respectively represented by learned Senior Advocate Mr C. A. Coutinho and Ms Kalpa Govekar. It was submitted by the learned Senior

Advocate for the defendant no.9 that the Devasthan Regulations do not permit a temple registered thereunder to transfer any of its properties either by sale or exchange, save and except in terms of Chapter VI of the Regulations that is to say only by way of lease.

4. I have perused the impugned order and the record before the Trial court. The resolution of the General Body dated 26.01.2023, when perused, *prima facie* would reveal that there is no specific decision recorded as to the terms of exchange; the resolution does generally discuss the question of exchange, but it does not appear, at least *prima facie*, that any specific power was given to the Managing Committee of the defendant no.9 to execute a transfer of the suit property in exchange for lands under Survey Nos.79/3, 90/3, 80/1, 80/2, 84/5, 87/8, 88/2 and 88/4 of Village Paroda. The Trial Court, on considering the resolution and the contents of the Deed of Exchange, has recorded a similar finding, which, based on the material before it, appears to be plausible. Since the Trial Court has taken a view by perusing the two main documents, which are the resolution and the Deed of Exchange, the discretion exercised by the Trial Court cannot be termed to be perverse or de hors the record. Even if there is a possibility of taking a different view, that by itself would be a reason to interfere with the discretion exercised by the Trial Court which is based upon the documents before it.

5. The Trial Court, after considering these documents, has also considered the survey records of the properties, and the fact that the property transferred to defendant nos.1 to 8 fell in a

settlement zone and further, that was exchanged by properties in favour of the defendant no.9 in which their land use was restricted since they fell in a No Development Zone. The Trial Court has also considered the question of balance of convenience and irreparable loss on the bases of the pleadings of the parties and the material placed by them. Considering all these facts, there would be no reason to interfere with the discretion exercised by the Trial Court, in so far as it restrains the defendant nos.1 to 8, pending the disposal of the suit from alienating the suit property or creating any third party rights thereon or developing the same. In other words, the Trial Court has endeavoured to maintain the status quo of the suit property during the pendency of the suit.

6. However, considering the transaction that the Trial court was dealing with was a Deed of Exchange, in my opinion, the Trial Court had to equally put defendant no.9 to terms to preserve the properties put into its possession under the Deed of Exchange i.e. the lands under Survey Nos.79/3, 90/3, 80/1, 80/2, 84/5, 87/8, 88/2 and 88/4 of Village Paroda. Whilst it is true that the plaintiff, as a mahajan of the temple, has filed the present suit, and there are issues of maintainability of the suit raised in the written statement at the behest of the defendants, nevertheless, whilst granting an order of restraint against the parties in whose favour the property of defendant no.9 had been transferred (land under Survey No.6/0 part of village Amona), was equally the duty of the Court to preserve the status of the properties (Survey Nos.79/3, 90/3, 80/1, 80/2, 84/5, 87/8, 88/2

and 88/4 of Village Paroda) which were put into possession of the defendant no.9 by the very same document. Consequently, whilst I uphold the order of the Trial Court insofar as it passes a restraint order in relation to the land under Survey No.6/0 part of village Amona against defendant nos.1 to 8, I deem it appropriate to issue a similar order of restraint against defendant no.9; the appeal is therefore allowed to a limited extent that in addition to the order of restraint as stated in the impugned order against defendant nos.1 to 8, there shall now also be an order of temporary injunction restraining defendant no.9 from acting on the basis of the suit deed of transfer dated 20.10.2021 (deed of exchange) by carrying out any development work or creating third party rights in the land under Survey Nos.79/3, 90/3, 80/1, 80/2, 84/5, 87/8, 88/2 and 88/4 of Village Paroda till the disposal of the Special Civil Suit No.3/2023.

7. Ordered accordingly. Appeal stands disposed of in the above terms.

VALMIKI MENEZES, J.