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20/3/26
Exhib. D-4

IN THE COURT OF THE PRINCIPAL DISTRICT JUDGE

NORTH GOA, AT MERCES – GOA

Regular Civil Appeal No. 20 of 2026

Shri Xamba Narayan Sinai Budkule (since deceased)

represented by his Legal Representative,

the Appellant No.3 herein Shri Vassant alias

Shailesh Dinkar Budkule,

and Others.

O><O Appellants

V/S

Smt. Chandra Harichandra Dhulapkar

alias Naik,

and 5 others

O><O Respondents

**APPLICATION FOR TEMPORARY INJUNCTION
UNDER ORDER XXXIX RULE 1 & 2 OF THE CODE
OF CIVIL PROCEDURE, 1908**

MAY IT PLEASE YOUR HONOUR

The Appellants abovenamed, who were the Plaintiffs before the Trial Court, most respectfully state and submit as under:

1. The Appellants/Plaintiffs have filed the present appeal against the judgment and decree dated 17th February 2026 passed by the Civil Judge Junior Division Sattari dismissing the Plaintiff's Regular Civil Suit No. 59/2015 dismissing the Plaintiffs suit and therefore, for easy reference and better clarity, the parties are referred to as 'the Plaintiffs' and 'the Defendants' as per their status before the Trial Court. The Appellants/Plaintiffs crave leave of this Hon'ble Court to refer to and rely upon the averments in the appeal memo in the present appeal and in the plaint and the application for temporary injunction and affidavit in rejoinder filed before the Trial Court as if the same are incorporated herein.

2. The Plaintiff had filed the suit for the following reliefs:

a) decree of mandatory injunction directing the defendants to demolish the said illegal construction of the structure illegally done by them in the encroached area admeasuring approximately 200 Sq. metres, and any other encroachments made by the defendants, from Survey No.104/2 of village Onda (Honda) of Sattari Taluka, as shown in the plan annexed to this plaint, and to deliver vacant and peaceful possession of the land of the encroached area to the plaintiffs.

b) perpetual injunction restraining the defendants from doing any excavation, construction, erection of any fencing(s), compound(s) or structure(s) in the said entire property known as 'PENEVORIL', commonly known as "Penem", entirely described in Land Registration Office of Bicholim under No. 16450 of Book B-42 (New) and surveyed for

record of rights under survey Nos. 4/1, 4/2, 2/1, 2/2, 147/1, 148/1, 148/2, 149/1, 146/1, 146/3, 103/2, 102/1, 105/1, 105/2 and 104/2 of village Onda of Sattari Taluka and also from in any manner interfering with the possession of the plaintiffs in respect of the said entire property as described above.

- c) decree directing the defendants jointly and severally to pay to the plaintiffs mesne profits at the rate of Rs.5,000/- per month from February 2015 till effective payment
- d) Costs of this suit be awarded to the Plaintiff.

BRIEF FACTS OF THE CASE:

Plaintiff's Case in brief:

3. The Plaintiffs are the owners in possession of the property 'PENEVORIL', commonly known as "Penem",

entirely described in Land Registration Office of Bicholim under No. 16450 of Book B-42 (New) and surveyed for record of rights under survey Nos. 4/1, 4/2, 2/1, 2/2, 147/1, 148/1, 148/2, 149/1, 146/1, 146/3, 103/2, 102/1, 105/1, 105/2 and 104/2 of village Onda of Sattari Taluka. This property is referred to as "the said entire property" which originally belonged to late Narayan Sinai Budkule and after his death in the Inventory Proceedings (succession), the said property is allotted to the Plaintiffs, who are the successors of late Narayan Sinai Budkule. As such the plaintiffs are the exclusive owners in possession of the said entire property. This fact has been confirmed by virtue of the Judgment and Decree dated 2nd May 2012 passed in Regular Civil Suit No. 19/2010(New), filed by the present Defendants claiming to be in adverse possession of an area of 1000 Square meters from Survey No.103/ and an area of 10,000 Square meters from Survey No.104/2 of village Onda for more than 50 years and that their husband/father late Harischandra Arjun Dhulapkar had constructed a

hut/structure in Survey No.104/2 and that he was residing therein and the Court of the Hon'ble Civil Judge Junior Division Sattari, after trial and after hearing arguments of both the parties, dismissed the said suit filed by the present defendants holding that the Defendants they had failed to prove that late Harichandra Dhulapkar, the husband of the defendant No.1, had constructed any hut or structure in the property bearing survey No. 104/2 of village Onda somewhere in year 1958-1960 or that he was living in the said structure for over 40 years. So also, this Hon'ble Court, in the said Regular Civil Suit No. 19/2010(New), held that the defendants herein had failed to prove that they have become owners of the suit properties bearing survey No. 103/2 and 104/2 of village Onda by adverse possession/prescription and that said Harischandra Arjun Dhulapkar was never in possession of any part of Survey No.103/2 or 104/1 of village Onda of Sattari Taluka. This Hon'ble Court further held, in the said suit that the plaintiffs herein who were the defendants in Regular Civil Suit No.

19/2010(New), had proved that the said entire property 'PENEVORIL' entirely described in the Land Registration Office of Bicholim under No. 16450 of book B-42 New includes new survey Nos. 103/2, and 104/2 besides the other above mentioned survey numbers of Village Onda and that the said property originally belonged to late Narayan Sinai Budkule and that Plaintiffs herein have inherited the same and are in possession of the said entire property. The said findings and the judgment and decree dated 2nd May 2012 passed by the learned Civil Judge Junior Division Sattari in Regular Civil Suit No. 19/2010(New), was confirmed in the first appeal by the judgment and decree dated 10th February 2014 passed by the District Judge-2, Panaji in Regular Civil Appeal No. 94/2012 and were also confirmed by the Hon'ble High Court by the oral order dated 5th February 2015 passed by the Hon'ble High Court in Second Appeal No. 92/2014.

4. The Plaintiffs have stated that in between due to sickness of the Plaintiff Nos.1 who is a cancer patient and the pre-occupation of the other Plaintiffs, the Plaintiffs could not visit the said property and on 30th April 2015, after the order passed by the Hon'ble High Court, when the Plaintiff No. 1 visited the said entire property, he found that the defendants had illegally completed a structure, which they had abandoned earlier in the year 2009 upon plaintiffs' complaint to the Mamlatdar of Sattari, within an area of approximately 200 Sq. metres from Survey No. 104/2 forming part of the said entire property. The said plot of approximately 200 sq. metres forming part of Survey No. 104/2 in which the defendants have done the said illegal construction shall be hereinafter referred as "the encroached area" and is more particularly shown in the sketch, drawn by Surveyor Shri Babasaheb B. Altekar, annexed to this plaint which shall formed part of this plaint.

5. The said high handed acts of the defendants of illegally doing the said construction without the consent or permission of the Plaintiffs and even without obtaining license from the Village Panchayat amounted to infringement of the Plaintiffs exclusive ownership and possessory rights in respect of the said property and therefore the present Regular Civil Suit No.59/2015 was filed before the Trial Court.

Defendants' Case in Brief

6. The Defendants have re-iterated their case as pleaded in the earlier suit bearing Regular Civil Suit No.19/2020 (New) claiming that late Harischandra Arjun Dhulapkar, more than 50 years ago, had constructed a hut/structure, which was repaired from time to time, within the said area of 10,000 Square meters in Survey No.104/2 of village Onda and the said Harishchandra was cultivating the said property and had done various types of plantations within the said areas of 1,000 Square meters in Survey No.103/2 and

10,000 Square meters in Survey No.104/2 of village Onda thus claiming exclusive possession in respect of the said two plots having areas of 1,000 Square meters in Survey No.103/2 and 10,000 Square meters in Survey No.104/2 of village Onda. The defendants claimed that the Plaintiffs, with his sweet tongue and in collusion with the survey authorities, managed to prevent the name of late Harischandra Arjun Dhulapkar from being recorded in the Form I & XIV of Survey No.103/2 and 104/2 as also prevented the existence of the house being shown in the survey plan of Survey No.104/2 of village Onda.

7. It is pertinent to note here that though the defendants have claimed to be in exclusive possession in respect of the said two plots having areas of 1,000 Square meters in Survey No.103/2 and 10,000 Square meters in Survey No.104/2 of village Onda through said late Harischandra Arjun Dhulapkar and that late Harischandra Arjun Dhulapkar had constructed a

hut/structure which was existing for more then 50 years and that he was earlier residing therein and that presently the said structure, which, as claimed, bears House No.129, is being occupied by the defendants, it has already been held by the same Court i.e. Court of the Civil Judge Junior Division Sattari at Valpoi in the said earlier Regular Civil Suit No.19/2010 (New) that late Harischandra Arjun Dhulapkar was never in possession of the said two plots having areas of 1,000 Square meters in Survey No.103/2 and 10,000 Square meters in Survey No.104/2 of village Onda and that the present defendants were also not in possession of the said two plots and also that late Harischandra Arjun Dhulapkar had never constructed any hut or structure in any part of Survey no.104/2 of village Onda and that he was never residing therein as also the defendants have not been residing in any part of Survey No.103/2 or Survey No.104/2 of village Onda of Sattari Taluka. It has also been held in the said Regular Civil Suit No.19/2010 (New) that the defendants therein i.e the present Plaintiffs are the owners in possession of said

property the 'PENEVORIL', commonly known as "Penem", entirely described in Land Registration Office of Bicholim under No. 16450 of Book B-42 (New) and surveyed for record of rights under survey Nos. 4/1, 4/2, 2/1, 2/2, 147/1, 148/1, 148/2, 149/1, 146/1, 146/3, 103/2, 102/1, 105/1, 105/2 and 104/2 of village Onda of Sattari Taluka which includes that said two plots bearing Survey Nos. 103/2 and 104/2 of village Onda of Sattari Taluka. Thus the above findings of the learned Civil Judge Junior Division Sattari at Valpoi, having been confirmed by the Hon'ble District Judge-2 Panaji and also by the Hon'ble High Court as stated above, have become final and binding between the parties and trial or decision on any issue contrary to the said findings is barred by the principles of Res-judicata.

8. The Plaintiffs, in the present case before the Trial Court, had filed an application for temporary injunction and the Trial Court after hearing the

arguments of both parties, by an order dated 27th July 2017, had by an order of temporary injunction restrained the Defendants from doing any excavation, construction, erection of fencing and/or compound and/or structure and from interfering with the possession of Plaintiffs in suit property in any manner whatsoever till the disposal of the suit. The present Defendants preferred Miscellaneous Civil Appeal No. 100/2017 against the said Order of temporary injunction, but later, on 6th April 2024, the Defendants withdrew the said Miscellaneous Civil Appeal No. 100/2017. Thus the said Order of temporary injunction dated 27th July 2017 passed by the Trial Court was in force till the present suit was dismissed by the Trial Court on 17th February 2026.

9. The Plaintiff submit that inspite of the above referred findings given by the learned Court of the Civil Judge Junior Division Sattari in it's Judgment and Decree dated 2nd May 2012 in Regular Civil Suit

No.19/2020 (New), having been confirmed by the Hon'ble District Judge-2 Panaji and also by the Hon'ble High Court as stated above, have become final and binding between the parties and trial or decision on any issue contrary to the said findings is barred by the principles of Res-judicata, the learned Civil Judge Junior Division Sattari, by a judgment and Decree dated 17th February 2026 passed in the Regular Civil Suit No.59/2015, dismissed the suit of the Plaintiffs/Appellants.

10. The Plaintiffs have reasonable apprehension that taking advantage of the dismissal of the suit, the Defendants who are numerically more and physically strong, may forcibly try to do any excavation and/or more constructions in the entire property "PENEVORIL", commonly known as "Penem", entirely described in Land Registration Office of Bicholim under No. 16450 of Book B-42 (New) and surveyed for record of rights under survey Nos. 4/1, 4/2, 2/1, 2/2, 147/1,

148/1, 148/2, 149/1, 146/1, 146/3, 103/2, 102/1, 105/1, 105/2 and 104/2 of village Onda of Sattari Taluka, in which event in the most likely success of the Appellants/Plaintiffs in the present appeal, the Appellants/Plaintiff may suffer grave and irreparable injury as the Respondents/Defendants may encroach into the entire property if the ex-parte temporary injunction as prayed herein is not granted by this Hon'ble Court during the pendency of the present appeal.

11. The Appellants/Plaintiffs therefore submit that it is just proper and expedient in the interest of justice the pending the hearing and final disposal of the present appeal the Defendants be restrained by an order of ex-parte temporary injunction from doing any excavation, construction, erection of fencing and/or compound and/or structure and from interfering with the possession of Plaintiffs in said entire property in

any manner whatsoever till the disposal of the present appeal.

12. The Appellants/Plaintiffs submit that no prejudice would be caused to the Respondents/Defendants if the temporary injunction as prayed herein is granted by this Hon'ble Court since the temporary injunction granted by the Trial Court against the Respondents/ Defendants was already operating against them till the dismissal of the suit by the suit by the Trial Court.

13. The Appellants/Plaintiffs submit that they have very good chances of succeeding in the present appeal since the reasoning and findings given by the Trial Judge are contrary to the findings given by the same Court in the earlier Regular Civil Suit No.19/2010 (New) which was between the same parties and which findings in the said earlier Suit were confirmed by the Hon'ble District Judge-2 Panaji in Regular Civil Appeal

No.94/2012 and also by the Hon'ble High Court in Second Appeal No.92/2014 and any trial or decision contrary thereto was barred by the principles of Res-judicata.

14. The Appellants/Plaintiffs submit that the balance of convenience is in favour of the Appellants/Plaintiffs.

15. The Appellants/Plaintiffs submit that they have made out a strong prima facie case for grant of ex-parte temporary injunction as prayed for.

16 As delay in serving the Respondents/Defendants may defat the ends of justice, an ex-parte temporary injunction as prayed herein may kindly be granted.

16. The Appellants/Plaintiffs have not received any notice of any caveat application under Section 148-A of the Code of Civil Procedure.

The Appellants/Plaintiffs therefore pray that:

- a) pending the hearing and final disposal of the present appeal, the Respondents/Defendants may kindly be restrained by an order of temporary injunction from doing any excavation, construction, erection of fencing and/or compound and/or structure in and also from interfering in any manner whatsoever with the possession of Plaintiffs in said entire property "PENEVORIL", commonly known as "Penem", entirely described in Land Registration Office of Bicholim under No. 16450 of Book B-42 (New) and surveyed for record of rights under survey Nos. 4/1, 4/2, 2/1, 2/2, 147/1, 148/1, 148/2, 149/1, 146/1, 146/3, 103/2, 102/1, 105/1, 105/2 and 104/2 of village Onda of Sattari Taluka, till the disposal of the present appeal.

b) As delay in serving the Respondents/Defendants may defeat the ends of justice, an ex-parte temporary injunction in terms of prayer (a) above may kindly be granted.

[Signature]
The Appellant No.1(a) & 3.

MERCES-GOA

[Signature]
Adv. for the Appellants

[Stamp] Date: ²¹20 March 2026

Heard & learned the Advocate on record's
Since the Respondents are served &
put up appearance in the matter and
the suit filed by present Appellants is
dismissed these cannot be T.I. order
to be passed in favour of Appellant
without giving opportunity to the
Respondents. Hence matter fixed for
Reply, in the open court for

Pronounced on 07/04/26
Adhoc



07/04/26
DS-1 (FICR1)
Adhoc Merces.