

Amrut



IN THE HIGH COURT OF BOMBAY AT GOA

SECOND APPEAL NO. 77 OF 2023

LADKO BOBDO GAWAS (DEC.) REP BY LRS ... Appellant

Versus

NAKUL KRISHNA GAWAS @ MAULINGKAR
(DEC.) REP BY LRS AND 8 ORS. ... Respondents

Ms Annelise Fernandes, Advocate for the appellant.

CORAM: M. S. KARNIK, J

DATED : 13th SEPTEMBER 2024

P.C. :

1. Heard learned counsel Ms Fernandes for the appellant.
2. Admit on the following substantial questions of law:

- (i) Whether when the Appellate Court having arrived at a finding on the basis of evidence that the Respondent Nos. 1 to 8 did not have any right to the suit property and further that the Appellants herein were in possession and enjoyment of 1/5th part of the suit property, the Appellate Court was right in dismissing the counter claim filed by the Appellants?

- (ii) Whether the Appellate Court having arrived at a conclusion that the Appellants had established their possession and enjoyment in respect of the subject matter of the counter claim filed by the Appellants and further recorded that the names of the Appellants (predecessor of the Appellants), being recorded in the Form I & XIV, the Appellate Court was justified in refusing the injunction prayed for in the counter claim?
- (iii) Whether the Appellate Court after having recorded a categorical finding that the evidence established the Appellants to be in possession of the 1/5th part of the suit property and the Respondent Nos.1 to 8 having no right to it, the Appellate Court was justified in refusing the injunction as prayed for, more so when the suit filed by the Respondent Nos.1 to 8 was dismissed?

M. S. KARNIK, J