

IN THE HIGH COURT OF BOMBAY AT GOA

MISC.CIVIL APPLICATION NO. 330 OF 2015

IN

WRIT PETITION NO. 25 OF 2015

MALWAN HOTELS PRIVATE LIMITED REP.
BY ITS CHIEF FINANCIAL OFFIER, MR.
TIRTHRAM ARONDEKAR AND ANR.,

... Applicants

Versus

MR. ROSENDO MENDOSA.,

... Respondent

Mr. Ashwin D. Bhobe, Advocate for the applicant No.1.
Mr. Sudin M. Usgaonkar, Advocate for the respondent.

Coram:- M. S. SANKLECHA, J.

Date:- 7th May, 2015

P.C.

This application has been taken out by the original respondent No.1 for recalling of the order dated 1 April 2015 passed by this Court.

2. By the order dated 1 April 2015, this Court had directed the trial Court to first decide the petitioner's application dated 18 June 2013 under Order VII Rule 11 of the Civil Procedure Code, seeking rejection of the plaint. This order dated 1 April 2015 was passed without issuing any notice to the respondents. As the Court then was of the view that it would be in the interest of justice that the application filed by the petitioner for rejection of the plaint be first disposed before other issues are taken up for consideration. As it would then obviate the necessity of deciding issues which may turn

out to be a futile exercise in case the trial court comes to the conclusion that the plaint has to be rejected under Order VII Rule 11 of the Civil Procedure Code.

3. The grievance of the applicant is that the order dated 1 April 2015 was passed without notice to him and in case he would have notice, it would have been possible for him to point out to this Court how prejudice is be caused to him if the application under Order VII Rule 11 of the Civil Procedure Code, is first disposed of before other pending applications are disposed of.

4. At this stage, without going into the correctness of my order dated 1 April 2015, I recall the same so as to pass a fresh after hearing the applications. This is being done so as to ensure that the applicant has no grievance of an order being passed to his prejudice without being heard with regard to his grievance. Accordingly, I recall the order dated 1 April 2015.

5. In view of the above, the application stands disposed of.

M. S. SANKLECHA, J.

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