

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 579 OF 2015

SHRI. SHANTADURGA KUMBAJUENKARIN
DEVASTHAN., THR. ATTORNEY MR.
JAYAWANT LADU PARAB.,

... Petitioner

Versus

SHRI. DEVKI KRISHNA RAVALNATH
SAUNSTHAN, THROUGH ITS ATTORNEY
MR. SATISH S. KENI.

... Respondent

Shri J. Coelho Pereira, Senior Advocate with Shri Vinod Vishnu
Korgaonkar, Advocate for the Petitioner.
Shri V.R. Tamba, Advocate for the Respondent.

Coram:- C. V. BHADANG, J.

Date:- 9th September, 2015

P.C:

By this petition, the petitioner, who is the plaintiff is challenging the order dated 11.06.2015 passed below Exhibit-25/D by the learned Civil Judge Senior Division, Ponda in Regular Civil Suit No. 34/2014/A. By the impugned order, the application (Exhibit-25/D) filed by the petitioner under Order 8 Rule 6 C of the Code of Civil Procedure, for exclusion of the counter claim raised by the respondent (defendant) has been dismissed.

2. After the petition was heard on merits, it is now submitted by Shri Tamba, the learned Counsel for the respondent, on instructions, that he will withdraw the counter claim and file a separate suit in the nature thereof. He also submits that he will seek an order of temporary injunction in the suit.

3. Shri Pereira, the learned Senior Counsel for the petitioner has no objection, for withdrawing the counter claim filed by the respondent.

4. In such circumstances, by consent, the counter claim is permitted to be withdrawn with liberty to file a separate suit. In view of the withdrawal of the counter claim, the prayer for exclusion of counter claim would become infructuous. In that view of the matter, the Writ Petition is disposed of, with liberty to the respondent to file a separate suit alongwith an application for temporary injunction. All the rival contentions of the parties are kept open. It is made clear that if, the respondent files an application for temporary injunction, the same shall be decided on its own merits, in accordance with law.

5. The Writ Petition is disposed of in the aforesaid terms, with no order as to costs.

C. V. BHADANG, J.

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