

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 560 OF 2014

SHRI SAYED SADIK SHA MUZAWAR REP.
HEREIN BY HIS P.O.A. SHRI SAIAD
NAZIR XA MUZAVOR

... Petitioner

Versus

SMT. MONALINDA MELO E FERNANDES
AND 18 ORS.,

... Respondents

Mr. Kakodkar Shambhu Satchidanand, Advocate for the petitioner.
Mr. Almedia Mario Joaquim Pinto, Advocate for the respondent
Nos.1, 2 & 3.

Coram:- M. S. SANKLECHA, J.

Date:- 21st April, 2015

P.C.

At the request of the counsel for the parties, the petition itself is taken up for final disposal, at the stage of admission.

2. This petition challenges the order dated 14 August 2014 passed by the Ad-hoc-III Additional Senior Civil Judge at Margao. By the impugned order, the petitioner's application for stay of execution under Order XXI Rule 29 of the Civil Procedure Code (hereinafter referred to as 'C.P.C.'), was dismissed.

3. The impugned order dismisses the application by disregarding the decision of this court in "Narsidas Nathubhai Vohra vs. Manharsingh Agarsing Thakar, reported in AIR 1931 Bombay 247" on the ground that the same is a very old judgment and instead places reliance upon the decision of some other Courts. This clearly not permissible. All Courts within the State are bound by the decisions of this Court and

the same cannot be ignored on the ground that the same is very old. There is no concept known to law which denudes the judgment of its binding character, only on account of passage of time.

4. In the above view, this is an appropriate case where supervisory jurisdiction under Article 227 of the Constitution of India should be exercised. Thus the impugned order dated 14 August 2014 is set aside with a direction to the learned Judge that he will decide issues arising before her, on the basis of decision rendered by this Court in the absence of any decision of the Supreme Court to the contrary.

5. The impugned order is set aside and the application under Order XXI Rule 29 of C.P.C. filed by the petitioner is restored to the Court of Ad-hoc-III Additional Senior Civil Judge, Margao, for fresh disposal. Mr. Almedia, the learned counsel for the contesting respondent Nos.1, 2 and 3 very fairly states that the respondents will not take any steps in execution till the disposal of the petitioner's application under Order XXI Rule 29 of the C.P.C.

6. All contentions left open to be urged before the Executing Court. Parties are directed to appear before the Ad-hoc-III Additional Senior Civil Judge, Margao, at 10 am. on 15 June 2015 for further direction by the Court.

7. Accordingly, the petition is disposed of.

M. S. SANKLECHA, J.