

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO. 614 OF 2014****AND****WRIT PETITION NO. 615 OF 2014**

MR. E.P. BADRI NARAYANAN AND ANR., ... Petitioners

V/S

M/S. GERA DEVELOPMENTS PVT. LTD.,
THR. ITS CHAIRMAN MR. KUMAR
PRITAMDAS GERA ... Respondent

Mr. E. P. Badri Narayan, Petitioner in person in Writ Petition
No.614/2014.

Mr. E. P. Badri Narayan, Husband of petitioner in person in Writ
Petition No.615/2014.

Mr. Anthony D'silva, Advocate for the respondent.

Coram :- N. M. JAMDAR, J.

Date :- 3 February 2015.

P.C.

By these petitions, the petitioners challenge the order passed by the Civil Judge, Junior Division, Panaji, dated 19 July 2014 dismissing the applications filed by the petitioners under Order 12 Rule 6 of the Civil Procedure Code, seeking decree on admission.

2. The party in person submitted that the applications ought to have been allowed by the learned Civil Judge in view of the clear and unequivocal admissions of the respondent. He relied on the letter dated

22 June 2011 of which paragraph no. 3 confirms that all outstanding in terms of agreement are paid in full. Secondly, he relied upon statement of account confirmed by the respondent, which states balance due from the petitioners is nil. He drew my attention to the reply to the application, wherein letter dated 22 June 2011 is not denied. He also relied upon the reply filed by the respondent before the Consumer Forum, in which according to the petitioners, there is an admission on the part of respondent that all amount under the agreement have paid. The party in person also placed on record the order passed in Regular Civil Suit No. 112 of 2013, allowing the application filed by the petitioners, for rejection of the plaint filed by the respondent.

3. The scope of Order 12 Rule 6 is narrow. It is invoked when there is a clear and unequivocal admission. In those circumstances the Court may, without waiting for determination of other issues, decree the suit. The learned Civil Judge found that there was no such unequivocal and clear admission. The admissions relied upon by the petitioners were prior to the inspection of the Commissioner. The learned Civil Judge found that the defence of the respondent raised triable issues. Whether there is any amount due from the petitioners, is a question, which is seriously disputed by the respondent. No fault can be found with the view taken by the learned Civil Judge with this is not

a case for decree on admission, but it of a trial.

4. The party in person submitted that the respondent is unauthorizedly demanding the amount from him and not executing a Sale Deed. He referred to the rejection of the plaint filed by the respondent. These may be relevant considerations for making a request for seeking expeditious hearing of the suits, but not for decree on admission, which is to be decided on merit. In any case the learned counsel for the respondent has pointed out that the order passed in Regular Civil Suit No. 112 of 2013 is already under challenge.

5. The writ petitions are accordingly rejected. If the petitioners make an application for expeditious disposal of the suits, the learned Civil Judge will consider the same favorably and if the learned Civil Judge does not have any other earlier time bound cases, will take the suits for disposal on priority basis.

6. Attempts to amicably resolve the dispute were made. However, the parties could not succeed. It will be open to the parties, to settle the dispute amicably during the pendency of the suits.

N. M. JAMDAR, J.

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