

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 625 OF 2014

SHRI GURUDEEP SINGH MATREJA. ... Petitioner
Versus
SMT. IONA F. QUADROS COLACO. ... Respondent

Mr. Almeida Coutinho Cleofato Garrett, Advocate for the Petitioner.
Mr. R. Pereira, Advocate for Respondent

Coram:- M. S. SANKLECHA, J.

Date:- 27th March, 2015

P.C.:

This petition challenges the order dated 12/9/2014 passed in execution proceeding by the Civil Judge Junior Division, Margao. By the impugned order the petition's prayer to take his reply on record was rejected.

2. On 18/4/2011, a decree was passed against the petitioner directing him to hand over the possession of a bar and restaurant (suit premises) and to pay licence fee/compensation, as per the agreement till the actual vacating of the suit premises. The petitioner has handed over the possession of the suit premises to the respondent-decree holder. However, there is a dispute as to the exact date of the handing over the possession of the suit premises by the petitioner to the respondent -decree holder resulting in a dispute over the licence fee-compensation payable. The Executing Court after

recording the fact that the petitioner had on several occasions taken dates, refused to grant any further time to the petitioner and also had refused to take its reply on record. Consequently, a warrant of arrest was issued against the petitioner for non payment of Rs.19,91,793/-.

3. By an order dated 26/2/2015, this Court after considering the submissions of the parties recorded as under:

"5. Though I am inclined to grant the indulgence of giving an opportunity to the petitioner, looking at the past conduct of the petitioner it will be with conditions. Any further order in this petition will be passed only if the petitioner deposits an amount of Rs.10,00,000/- in the Executing Court before the next date of hearing in the present petition. Mr. C. A. Coutinho, on instructions, from the petitioner states that petitioner will deposit this amount. Stand over to 19/3/2015.

6. If the amount is so deposited the Court will proceed to pass an order of giving opportunity to the petitioner to file a reply. The Court will consider imposing a condition that petitioner will hence forth attend all the dates before the Executing Court and for default the warrant of arrest will stand revived, however after three dates of hearing it will be open to the petitioner to seek relaxation from personal appearance."

4. Counsel for the parties inform me that the petitioner has in terms of the order dated 26/2/2105 deposited the amount of Rs.10.00 lakhs

in the Executing Court. The deposit having been made by the petitioner, the Executing Court is directed to take the petitioner's reply on record and decide the issues arising before it as expeditiously as possible and preferably within 6 months from today.

5. However, it is made clear that, the petitioner will henceforth attend before the Executing Court on the scheduled dates and for default the warrant of arrest will stand revived. However, after three dates of hearing it will be open to the petitioner to seek relaxation from personal appearance.

6. Petition disposed of in the above terms. No order as to costs.

M. S. SANKLECHA, J.

ap/-