

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 798 OF 2014

SHRI PRABHAKAR SAULARAM
ARLEKAR THROUGH P.O.A
MR. PRAVIN PRABHAKAR ARLEKAR. ... Petitioner.

V/S

MRS. ANTONIETA ADELINE
TEMUSO AND ANR. ... Respondents

Mr. Jose Filipe Melo, Advocate for the petitioner.
Mr. J. E. Coelho Pereira, Senior Advocate with
Mr. V. Korgaonkar, Advocates for the respondents.

Coram :- N. M. JAMDAR, J.

Date :- 3 February 2015.

ORDER :

The petitioner challenges the order passed by the Civil Judge, Senior Division, Mapusa in Execution Application No.58/2002/C, dated 5 December 2014.

2. The respondents filed an Execution Application for execution of decree passed in Regular Civil Suit No. 84/1988 on 6 October 2001. The petitioner had resisted the execution application on the ground that the issue as to the status as Mundkar is pending in this Court in a writ petition. It was submitted that if the petitioner is dispossessed pursuant to the decree he will be rendered remedyless.

3. Learned senior counsel for the respondents submitted that the petition pending in this Court is only as regards to condonation of delay of seven years, and the petitioner has already filed a Regular Civil Appeal challenging the judgment and decree dated 6 October 2001. The petitioner has already filed an appeal challenging the decree which is put under execution. Remedy is available to the petitioner to seek appropriate relief from the Appellate Court. In these circumstances, it is not necessary to entertain the writ petition. The writ petition is accordingly rejected.

4. The ad-interim order which is granted on 22 December 2014, is continued for a period of two weeks from toady. The ad-interim order was passed on 22 December 2014 on the contention of the petitioner that there was imminent danger to the petitioner being dispossessed, and it was without hearing the respondent. It is therefore clarified that, the continuation of the interim protection, if any, will be considered by the Appellate Court on its own merits, uninfluenced by the ad-interim order granted in this petition.

N. M. JAMDAR, J.