

IN THE HIGH COURT OF BOMBAY AT GOA

SECOND APPEAL NO. 82 OF 2015

MR.SAHISH G. MAHAMBREY AND ANR., ... Appellants
Versus
MR.NARAYAN A. MAHAMBREY. ... Respondent

Shri S.S. Kantak, Senior Advocate with Shri Abhijeet Kamat,
Advocate for the Appellants.
Shri D. Zaveri, Advocate for the Respondent.

Coram:- F. M. REIS, J.

Date:- 29th April, 2016

P.C.:

Heard Shri S.S. Kantak, the learned Senior Counsel appearing for the appellants and Shri D. Zaveri, the learned Counsel appearing for the respondent.

2. The above appeal came to be admitted by an order dated 16/04/2016 on the following substantial question of law:

Whether the Courts below were justified in refusing the interest pende lit in terms of Section 34 of the Civil Procedure Code when both the Courts have come to the conclusion that the appellants were entitled for the amount claimed in the suit?

3. Upon hearing the learned Counsel appearing for the appellants

and the respondent, considering that the dispute was only with regard to the payment of interest during the pendency of the proceedings, both the learned Counsels have pointed out that the parties have amicably settled their dispute and have signed consent terms. The consent terms are signed by the appellants and the respondent along with their respective advocates. The learned Counsels appearing for the parties have also identified the signatures of the respective parties. The appellants and the respondent, who are present in Court have admitted the execution of the consent terms and have pointed out that the parties have amicably settled their dispute and accordingly signed the consent terms. Consent terms are accepted and marked 'X' for identification. The respondent who is present in Court points out that an undertaking has also been given in the consent terms with regard to the payment of the amount referred to therein. The undertaking shall accordingly be accepted. The substantial question of law is answered accordingly.

4. In view of the above, I pass the following order:

O R D E R

(i) The appeal is partly allowed.

(ii) The impugned judgment and decree dated 30/12/2013 passed by the learned Additional Senior Civil Judge at Panaji in Special

Civil Suit No.110/2007 stands modified in terms of the consent terms marked 'X' for identification.

(iii) The appeal stands disposed of accordingly.

(iv) Decree to be drawn accordingly.

F. M. REIS, J.

NH