

IN THE HIGH COURT OF BOMBAY AT GOA.

APPEAL FROM ORDER NO. 45 OF 2015.

John Janus Barreto	... Appellant.
Vs	
Mrs. Philomena D'Souza through	
Attorney Mr. Alberty D'Souza	... Respondent.

Mr. D. Pangam, Advocate for the appellants.
Mr. Anthony D'Silva, Advocate for the respondent.

Coram:- K. L. WADANE,J.

Date:4th February, 2016.

ORAL ORDER

The appellant has preferred this appeal against the order dated 4.6.2015 passed by the Ad-hoc Senior Civil Judge, "A" Court, Mapusa, whereby an application at Exh. 64-D filed by the respondent under Order 39 Rule 11 of the CPC is allowed. Hence, the present appeal.

2. The brief facts of the case may be stated as follows:-

The respondent filed a suit for eviction and mesne profit. The respondent also filed an application seeking direction to the appellant to deposit the rent.

3. On 10.2.2014, the learned Trial Court directed the appellant to deposit the rent from 2.5.2005, within a period of two months and continue to deposit the monthly rent of Rs.1000/- per month. On failure, the respondent filed an

application for striking of the defence of the appellant at Exh. 64-D. The learned Trial Court was pleased to direct that the defence of the appellant be struck off.

4. During the course of the arguments, Mr. Pangam, learned Counsel appearing for the appellant has stated that the appellant was unable to pay the amount as per the directions given by the trial Court. Therefore, the appellant requested for the instalment facility of some of Rs.3000/- per month towards arrears.

5. Mr. Pangam, learned Counsel appearing for the appellant has stated that as per the order of this Court dated 15.9.2015, the appellant has deposited entire amount in this Court as per the direction of the trial Court and he also stated that the appellant be allowed to deposit a sum of Rs.1000/- per month as per the directions of the trial Court.

Corrections carried
out as per order
dated
4.3.2016.

6. The other side has no objection provided that the respondent may be permitted to withdraw the amount deposited before this Court as per the directions of the learned Trial Court.

7. In view of the submission of both sides, appeal is allowed with no order as to costs. The order dated 4.6.2015

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passed by the Ad-hoc Senior Civil Judge, A Court, Mapusa below the application at Exh. 64-D is hereby quashed and set aside. The ~~appellant~~ **respondent** is at liberty to withdraw the amount deposited in this Court pursuant to the order passed by the trial Court.

8. Appeal stands disposed of accordingly.

K. L. WADANE, J.

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