

IN THE HIGH COURT OF BOMBAY AT GOA**SECOND APPEAL NO. 103 OF 2015**

1. Digital Entertainment,

A Partnership Firm constituted under the Provisions of the Indian Partnership Act, 1932, having its Office at Shop No.A-7, C/o. Ravindra Photo Studio, Valmiki Business Centre, Chota Bazaar, Baina, Vasco-da-Gama, Goa 403 802, through its partner Mr. Sayeed Nabeel, r/o. Sasmolem, Baina. Vasco-da-Gama, Goa 403 802.

2. Mr. Ramchand Kamat, son of Subray Kamat, aged about 46 years, business, resident of Falt No.MB/12, Housing Board Colony, Baina, Vasco-da-Gama, Goa 403 802.

3. Mr. Amarnath D. Desai, son of Dinanath Desai, aged about 38 years, business, resident of House No.85, Bogda, Alto Desterro Church, Vasco-da-Gama, Goa 403 802.

4. Mr. Sayeed Nabeel,
Son of Sayeed Jamuldin,
aged about 42 years, business,
Resident of Mjuwar,
House No. 187, Behind Baina Church,
Sasmolem, Baina.
Vasco-da-Gama, Goa 403 802.

..... Appellants.

V e r s u s

Mr. Surinder Singh,
son of late Mr. Joginder Singh,
aged about 50 years, business,
resident of Devashree Darshan,
Mangor Hill,
Vasco-da -Gama, Goa 403 802.

..... Respondent.

Mr. Thalman Pereira, Advocate for the appellants.

Mr. B. Khandeparkar, Advocate for the respondent.

CORAM :- F.M. REIS, J.

Date : - 06/05/2016

ORAL JUDGMENT :-

Heard Mr. T. Pereira, learned Counsel appearing for the appellants and Mr. B. Khandeparkar, learned Counsel appearing for the respondent.

2. Admit, on the following substantial question of law :

Whether in the facts and circumstances of the case the learned Lower Appellate Court was justified to award interest at the rate of 9% per annum on the sum of Rs.7,49,360/- from the date of the filing of the suit upto the actual payment ?

3. The limited controversy in the appeal is, whether the learned Lower Appellate Court was justified to award interest at the rate of 9% p.a. from the date of the filing of the suit till actual payment, instead of 6% p.a. awarded by the learned Trial Court. It cannot be disputed that awarding of interest, after filing of the suit, is within the discretion of the Court in terms of Section 34 of the Civil Procedure Code.

4. Normally, this Court would not interfere with such exercise of discretion, but, however, during the course of hearing of the appeal, Mr. B. Khandeparkar, learned Counsel appearing for the respondent, upon instructions, states that the respondent is agreeable to substitute the rate of interest in the impugned decree from 9 % p.a. as awarded by the learned Lower Appellate Court to 6% p.a. from the date of the filing of the suit till actual payment. The substantial question of law is answered accordingly.

5. In view of the above, I pass the following:

O R D E R

- (I) The appeal is partly allowed.
- (II) The impugned Judgment dated 20/08/2015, passed by the District Judge-IV, Margao in Regular Civil Appeal No.112/2011 stands modified whereby the amount payable to the respondent shall carry interest at the rate of 6% p.a. from the date of filing of the suit upto the date of actual payment.
- (III) The appeal stands disposed of accordingly.

F.M. REIS, J.

ssm.