

IN THE HIGH COURT OF BOMBAY AT GOA**SECOND APPEAL NO. 97 OF 2016**

Shri Gajanan Sakaram Teleigaonkar,
Major, business and r/o
Santa Cruz Calapur,
Tiswadi Taluka Goa.

... Appellant

Versus

M/s. Raghurai Tamba
A registered partnership firm
having its office at Primal,
Altinho, Panaji Goa.

... Respondent

Mr. C. A. Coutinho and Mr. S. Redkar, Advocates for the appellant.

Mrs. A. Agni, Senior Advocate with Ms. A. Kamat, Advocate for the respondent.

Coram:- F. M. REIS, J.

Date:- 21st October, 2016

ORAL JUDGMENT

Heard Mr. C. A. Coutinho, learned counsel appearing for the appellant and Mrs. A. Agni, learned Senior Counsel appearing for the respondent.

2. Admit on the following substantial question of law :

Whether the finding that the Court need not dwell in the issue of providing electricity connection and giving NOC to obtain trade licence need not be gone into by the First Appellate Court due to the plaintiff not filing cross objections is contrary to Order 41 Rule 33 of C.P.C. particularly when the trial Court had granted such a order dated 26.06.2000 and the trial Court ordered payment of compensation at the rate of 17.5% on the principal amount from 20.05.1994 till the date of providing electricity connection to the suit shop ?

3. Ms. A. Kamat, learned counsel waives service on behalf of the respondent.

4. The matter was heard at length. The dispute was with regard to the identity of the shop in question and the compensation payable on account of the delay in delivering the shop to the appellant herein. During the course of the hearing of the above appeal, both the learned counsel sought time to settle the dispute between the parties. When the matter was taken up today, both the learned counsel pointed out that the

appellant and the respondent have amicably settled their dispute and have executed consent terms. The consent terms have been signed by the appellant/plaintiff and the respondent/defendant. The signatures of the said parties have been identified by the learned counsel appearing for the appellant and the respondent. The respective sons of the appellant and the respondent who are present in Court also confirmed the signatures of their respective parents, namely the appellant and the respondent and appended their signatures as a token of their confirmation. The consent terms are also signed by the learned counsel appearing for the appellant and the respondent. The son of the appellant who is present in Court has received the amount referred to in the above consent terms on behalf of his father who is stated to be bed ridden. The consent terms are accepted and marked 'X' for identification. Both the learned counsel as such point out that the appeal may be disposed of based on the said consent terms. The substantial question of law is answered accordingly.

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

ORDER

(i) The impugned judgments passed by the

learned Trial Court dated 30.08.2008 and the learned Appellate Court dated 01.09.2014 are quashed and set aside.

(ii) The suit filed by the appellant stands decreed in terms of the consent terms marked 'X' for identification.

(iii) Decree to be drawn accordingly.

(iv) The appeal stands disposed of accordingly.

F. M. REIS, J.

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