

IN THE HIGH COURT OF BOMBAY AT GOA**MISC. CIVIL APPLICATION NOS.691 & 830 OF 2016****MISC. CIVIL APPLICATION NO.691 OF 2016**

SMT. POORNIMA KAMU NAIK.APPLICANT

V/S

M/S. GOA COACH,

REPRESENTED BY RENUKA

KRISHNA GHASARE AND ANR. ...RESPONDENTS

Shri Arjun F. Naik, Advocate for the Applicant.

Shri Ryan Menezes, Advocate for the Respondent.

AND

MISC. CIVIL APPLICATION NO.830 OF 2016

M/S GOA COACH, REPRESENTED

BY RENUKA KRISHNA GHASARI.

....APPLICANT

V/S

SMT. POORNIMA KAMU NAIK AND ANR. ...RESPONDENTS

Shri Ryan Menezes, Advocate for the Applicant.

Shri Arjun F. Naik, Advocate for Respondent
No.1.

CORAM : C.V. BHADANG, J.

DATE : 14/10/2016

P.C.:

Writ Petition No.374/2015 is filed by the original defendant no.1 challenging the order passed by the learned District Judge whereby the petitioner is restrained from interfering with the business conducted by the

respondent/plaintiff in the suit shed and to open the blockage for free access and to restore the power supply. The application for temporary injunction was rejected by the Trial Court. The order of the District Judge is challenged in the Writ Petition.

2. It appears that the subject shed has collapsed during the pendency of the petition. Hence, Misc. Civil Application No.691/2016 is filed by the petitioner for permitting him to clear the debris of the collapsed structure and to clear the site, while Misc. Civil Application No.830/2016 is filed by the respondent no.1 for restoration of electric supply and use of the suit shed for the business of the applicant and to restrain the respondent from interfering with the business activity.

3. Admittedly, there is no stay operating to the impugned order. However, the question would be whether on account of the shed having

collapsed, the order can be executed. That apart, it is not necessary to go into this aspect in a civil application. The civil application would not lie to enforce the order of temporary injunction. Rule is already issued in the Writ Petition. In any event, Misc. Civil Application No.830/2016 cannot be favourably considered and is dismissed.

4. In so far as Misc Civil Application No.691/2016 is concerned, the application cannot be entertained in the Writ Petition. It will be open to the petitioner to file appropriate application, if so advised, before the Trial Court. If such an application is filed, the Trial Court shall decide the same on its own merits and in accordance with law. The application is accordingly disposed off.

C.V. BHADANG, J.

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