

IN THE HIGH COURT OF BOMBAY AT GOA

SECOND APPEAL NO. 29 OF 2017

SHRI. PRABHAKAR SAULARAM ARLEKAR., ... Appellant

Versus

MRS. ANTONIETA ADELINA TEMUDO
(DEC) REP. BY HER CONST. ATT.,
SHRI. ALEXO DA CRUZ GOMES AND
ANR.,

... Respondents

Mr. Prasheen Lotlikar, Advocate for the Appellant.

Coram:- F. M. REIS, J.

Date:- 3rd March, 2017

P.C.

Heard Mr. Lotlikar, learned Counsel appearing for the Appellant.

2. The challenge in the above Appeal is to the Judgments passed by the Courts below whereby the suit filed by the Respondents came to be decreed.

3. Mr. Lotlikar, learned Counsel appearing for the Appellant submits that it is the case of the Appellant that he is a Mundkar of the subject premises which defence was raised in the suit filed by the Respondents. It is further pointed out that the issue which was referred to the learned Mamlatdar, came to be dismissed but, however, the challenge to such Orders before the Appellate

Forum as well as before this Court did not yield any success as the Petitions were rejected. It is further pointed out that the Appellant has been residing in the subject house for last many years and grave injustice would be occasioned if they are evicted from the said house. Learned Counsel has further taken me through the impugned Judgments passed by Courts below and pointed out that the learned Judge has erroneously decreed the suit filed by the Appellant.

4. I have duly considered the submissions of the learned Counsel and I have also gone through the records. Once the issue which has been referred by the Civil Court to the learned Mamlatdar in terms of the Goa Daman and Diu Mundkar (Protection from Eviction) Act, 1975, the findings rendered therein would attain finality as far as the Civil Court is concerned as it is an admitted position that the challenge to such findings before the Appellate forum came to be rejected. On the face of the fact that the claim of the Appellant i.e. Mundkarship, has been rejected and has attained finality, the defence of the Appellant that they are entitled to continue to occupy the subject premises, would no longer survive. In such circumstances, both the Courts below were justified to proceed with the Suit and Decree the Suit filed by the Respondents as the Appellant was non-suited on the defence raised in the Suit.

5. In such circumstances, there are no substantial questions of law which arise in the present Appeal for consideration. The Appeal stands accordingly rejected.

F. M. REIS, J.

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