

IN THE HIGH COURT OF BOMBAY AT GOA

FIRST APPEAL NO. 71 OF 2010

SMT. SHANTA GURUDAS RATABOLI ... Appellant

Versus

**SHRI. NARESH BHAVANI RAMANI AND 4
ORS.,** ... Respondents

Mr. Ashwin D. Bhobe and Ms. S. Bhobe, Advocates for the
petitioner.

Coram:- C. V. BHADANG, J.

Date:- 6th November 2017

P.C.

A copy of the order dated 03/08/2017 tendered across bar is
taken on record and marked 'X' for identification.

2. Present appeal is by the original defendant no.1 challenging
the judgment and decree dated 25/02/2010, passed by the learned
Senior Civil Judge at Mapusa, in Special Civil Suit
No.189/1997/A. By the impugned decree, the suit filed by the
respondent nos.1 and 2 came to be decreed in the following
terms:

"The suit filed by the plaintiffs is decreed as prayed.

It is hereby ordered that the plaintiffs are entitled to
a decree for specific performance of the agreement dated

19/4/82 as prayed for i.e. by conveying the property in favour of the plaintiffs or in the alternative the defendants are hereby directed to pay to the plaintiffs the sum of Rs.8,79,750/- along with interest at 18% p.a. from the date of filing of the suit till final payment."

3. Apart from the appellant, there were two other defendants in the suit. The defendant no.4 M/s. Gopal Builders and Developers had filed an independent appeal being F.A. No.72/2010, challenging the very same decree. Indisputably, the appellant M/s. Gopal Builders and Developers have paid the amount of Rs.10 Lakhs to the respondent nos.1 and 2 (Decree Holders) and thus, the decree stands fully satisfied as recorded by the Executing Court in Special Execution Application No.37 of 2013/A by an order dated 03/08/2017. In other words, the Execution Proceedings are closed as the decree is satisfied. In that view of the matter, M/s. Gopal Builders and Developers have withdrawn First Appeal No.72/2010. In such circumstances and particularly when one of the co-defendant has fully satisfied the decree, nothing would survive in the present appeal.

4. Shri Bhobe, the learned Counsel for the appellant submits that there are certain observations and findings in the impugned judgment against the appellant. For such a reason, the appeal cannot be allowed to be prosecuted or continued. This is because

the Court would be extremely slow in going into the questions, which may be of academic nature when the real dispute does not survive.

5. In such circumstances, in my considered view, nothing survives in the appeal, which is accordingly disposed of as infructuous, with no order as to costs.

C. V. BHADANG, J.

SMA