

Santosh

***IN THE HIGH COURT OF BOMBAY AT GOA
MISC. CIVIL APPLICATION NO.386 OF 2015
IN
SECOND APPEAL NO. 130 OF 2005***

Mohonsons Engineering Services Pvt. Ltd. Applicant.

Versus

Macmen Foods & Ors. Respondents.

Mr. Preetam Talaulikar, Advocate for the Applicant.

Coram : N.M. Jamdar, J.

Date : 5 December 2017.

P.C.:

By this application, the Applicant has sought an order permitting the Applicant to withdraw an amount of ₹ 52500/- deposited by the Respondent-original Appellant pursuant to the order dated 29 June 2006, along with accrued interest thereon.

2. The Applicant had filed a suit for recovery of an amount of ₹ 52500/- along with the interest accrued thereon, in the Court of Civil Judge, Senior Division, Margao. The learned Civil Judge and the learned District Judge held in favour of the Applicant and directed the Respondent to pay an amount of ₹ 52500/-, along with

interest, to the Applicant. Second Appeal No.130/2005 was filed by the Respondent-original Appellant, which was admitted on 29 March 2007. By an earlier order dated 29 June 2006, the Court had directed the Respondent-original Appellant to deposit an amount of ₹52500/- along with interest at the rate of 6%. On 29 March 2007, the Court did not modify the order of deposit and the amount therefore continued deposited in the Registry of this Court.

3. By Judgment and Order dated 24 April 2015, the Second Appeal was dismissed. No request was made by the Appellant to restrain the present Applicant to withdraw the amount. The Appellant has also not approached this Court since last 2 and half years in respect of the deposit.

4. Since the Applicant has succeeded in the Second Appeal, there is no reason not to permit the Applicant to withdraw the amount deposited. Accordingly, the Civil Application is allowed in terms of prayer clause (a). The statement of the learned Counsel for the Applicant, on instructions that in case any application is made by the original Appellant within a period of six months from today, and if any order is passed by this Court directing to deposit the amount, the Applicant will do so, is accepted.

N.M. Jamdar, J.