

IN THE HIGH COURT OF BOMBAY AT GOA.

WRIT PETITION NO. 783 OF 2012.

Mr. Aires Joseph Cordeiro
aged about 54 years
Resident of Vivienne Apartments,
Lake View Colony, Miramar
Panaji-Goa.

... Petitioner.

Versus

1. Mr. Patrick Paes,
aged about 63 years,
2. Mrs. Brenda Paes
aged about 57 years,
Both residents of H. No.31(545),
Ribeiro Vaddo, near Pinto do
Rosario Hospital,
PO Porvorim, Bardez Goa.

... Respondent.

Mr. Y. Nadkarni and Ms. A. Kale, Advocates for the petitioner.

Mr. R. G. Ramani, Advocate for the respondents.

Coram:- M. S. SONAK, J.

Date:- 15th May, 2017.

ORAL JUDGMENT

Heard Mr. Y. Nadkarni, learned Counsel for the petitioner
and Mr. R. G. Ramani, learned Counsel for the respondents.

2. The challenge in this petition is to the order dated 25.4.2012 made by the learned Trial Judge dismissing the petitioner's application under Section 151 of CPC to adjourn sine die the proceedings in Special Civil Suit No.67/2003/A until the disposal of the

Matrimonial Petition No.64/2004/A pending before the learned Civil Judge, Senior Division at Mapusa, Goa.

3. The Special Civil Suit No.67/2003/A is a suit for specific performance instituted by the petitioner/Aires against Patric Paes and Brenda Paes(respondents herein). The Matrimonial Petition no. 64/2004/A is a petition for a divorce instituted by Susan Pinto, wife of the petitioner Aires. Incidentally, Susan Pinto is a sister of Brenda Paes.

4. In the Matrimonial Petition, the learned Trial Judge as well as this Court have issued an injunction to protect the interest of Susan Pinto *inter alia* in relation to the two flats which are the subject matter of the dispute in the suit for specific performance instituted by Aires against Patrick and Brenda.

5. Mr. Nadkarni, learned Counsel for the petitioner, in the aforesaid circumstances submits that the injunctions issued by the learned Trial Judge in the Matrimonial Petition might influence the decision in the Special Civil Suit No.67/2003/A. Mr. Nadkarni, submits that in view of the injunction granted, it is possible that Patrick and Brenda urge that no decree of specific performance can be granted as prayed for by Aires.

6. After the matter was heard for sometime, I am satisfied

that no useful purpose will be served by adjourning the proceedings in Special Civil Suit No.67/2003/A until the disposal of the Matrimonial Petition. Rather, it will be in the interest of justice, if, Special Civil Suit No.67/2003/A is directed to be disposed of, in accordance with law, without, in any manner, being influenced by orders dated 24.2.2009 and 3.11.2009 made by the learned Trial Judge as well as this Court in Matrimonial Petition No.64/2004/A and Appeal from Order no.46/2009. Accordingly, the learned Trial Judge is directed to dispose of the Special Civil Suit No.67/2003/A, without, in any manner, being influenced by the said two orders, and, on its own merits and in accordance with law.

7. However, in case, the learned Trial Judge, decrees the Special Civil Suit No 67/2003/A, such decrees, shall not be put into execution by Aires, without leave of the learned Trial Judge taking up the Matrimonial Petition No.64/2004/A. Such a direction, will also, sustain effect of orders made in Matrimonial Petition No.64/2004/A, which orders, in any case, are interim in nature, and at the same time, not indefinitely postpone the proceedings in Special Civil Suit No. 67/2003/A in which Aires has applied for decree of specific performance.

8. This petition stands accordingly disposed of with the aforesaid terms. There shall be no order as to costs.

9. Parties are directed to appear before the learned Trial Judge, taking up Special Civil suit No 67/2003/A on 6.6.2017 at 10.00am and produce authenticated copy of this order.

10. Rule stands disposed of in the aforesaid terms.

M. S. SONAK, J.

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