

IN THE HIGH COURT OF BOMBAY AT GOA

MISC.CIVIL APPLICATION NO. 69 OF 2017

IN

FIRST APPEAL NO. 29 OF 2005

MR. MARIO JOAO D'SOUZA, REP. BY
ATT., MRS. CARMELINA P. S. VAZ AND
ANR.,

... Applicants

Versus

MR. EMELIO FRANCISCO D'SOUZA (DEC)
THR. HIS LRS. AND ANR.,

... Respondents

Mr. Ryan Da Piedade Menezes, Advocate for the applicants.
Respondents though served absent.

Coram:- F. M. REIS, J.

Date:- 17th March, 2017

P.C.

Heard Mr. R. Menezes, learned counsel appearing for the
applicants. The respondents though served absent.

2. This is an application to withdraw the amount deposited in
this Court in view of the order dated 29.04.2005 passed in Civil
Application No.35 of 2005 in First Appeal No.29 of 2005
originally filed by the applicants.

3. It is pointed out by the learned counsel appearing for the
applicants that during the pendency of the appeal, in view of the
amendment to the Civil Code, the appeal was transmitted to the

learned Appellate Court to dispose of the appeal on its own merits. The learned counsel has thereafter pointed out that the dispute between the appellants and the respondents was settled in Regular Civil Appeal No.373/2010 whereby the appeal was disposed of based on the consent terms. The learned counsel has also brought to my notice the term of the consent terms which inter alia states that the amount deposited pursuant to the said order in this Court is the entitlement of the appellants herein. The respondents though served failed to remain present. Looking into the material on record and the contentions of the learned counsel appearing for the applicants and that the averments in the application stand controverted, the applicants are allowed to withdraw the amount deposited in this Court pursuant to the said order dated 29.04.2005 passed in Civil Application No.35 of 2005 in First Appeal No.29 of 2005 with accrued interest, if any.

4. The application stands disposed of accordingly.

F. M. REIS, J.

at*