

IN THE HIGH COURT OF BOMBAY AT GOA

CIVIL APPLICATION (REVIEW) NO. 27 OF 2018

IN

APPEAL FROM ORDER NO. 40 OF 2017

ARLENE LOBO.,

... Applicant

Versus

DEEPAK GOVEKAR AND 3 ORS.,

... Respondents

The applicant in Person.

Coram:- C. V. BHADANG, J.

Date:- 10th September 2018

P.C.

This is an application for review of the order dated 07/03/2018, by which the Appeal from Order No.40/2017 filed before this Court was dismissed as not maintainable.

2. The appellant had filed Regular Civil Suit No.231/2015 before the learned Civil Judge, Junior Division, Mapusa for several reliefs. The defendants filed an application under Order VII, Rule 11 of Civil Procedure Code (CPC), for rejection of the plaint. The learned Trial Court found that the plaint does not disclose any cause of action and also does not make out any intelligible case and, therefore, rejected the plaint. That was challenged by the appellant before this Court in the aforesaid

Appeal from Order. A bare perusal of the order dated 07/03/2018 shows that a specific query was made to the appellant whether she intends to approach the learned District Judge for availing the statutory remedy of appeal. A similar query was again made today. However, the appellant insisted for hearing the Review Application and expressed her inability to approach the learned District Judge. The appellant wants the matter to be decided in this Court only.

3. I have heard the appellant in person and perused record.

4. The appellant has placed reliance on the decision of the Supreme Court in the case of ABL INTERNATIONAL LTD AND ANOTHER VS. EXPORT CREDIT GUARANTEE CORPORATION OF INDIA LTD AND OTHERS; (2004)3 SCC 553. It is difficult to envisage as to how the decision can come to the aid of the appellant. The question before the Hon'ble Supreme Court in the case of ABL INTERNATIONAL LTD (supra) was whether in a given case the Writ Court has jurisdiction to entertain the Writ Petition involving the disputed questions of fact. The Hon'ble Supreme Court, inter alia, held that there is no absolute bar in regard thereto.

5. Coming to the present case, the order of rejection of plaint amounts to a decree under Section 2(2) of the CPC against

which, the appellant has a statutory remedy of appeal before the learned District Judge. Considering the fact that the appellant has a statutory remedy of appeal, I do not find that there is any error apparent on the face of the record in the impugned order. The Review Application is, accordingly, dismissed.

C. V. BHADANG, J.

SMA