

IN THE HIGH COURT OF BOMBAY AT GOA**CIVIL REVISION APPLICATION NO. 18 OF 2018**

1. State of Goa,
Represented by the Chief Secretary,
Government of Goa,
Secretariat, Panaji, Goa.

2. The Executive Engineer,
Works Division XXIII,
Public Works Department,
Bicholim, Goa.

..... Appellants.

V e r s u s

M/s. Delcon Engineering,
A partnership firm registered
with the Registrar of Firms,
Ilhas under no.201/95,
Having its registered office at
Mulla Mansion, Ponda,Goa.

..... Respondent.

Coram:- C. V. BHADANG, J.

Date:- 25th July 2018.

Ms. Susan Linhares, Addl. Government Advocate for the Appellants.

Mr. V. Rodrigues, Advocate for the Respondent.

Oral Order:

Heard Ms. Linhares, the learned Additional Government Advocate for the appellant and Shri Rodrigues, the learned counsel for the respondent. Perused record.

2. The short point involved in this revision application is whether towards the payment of the decretal amount, the payment has to be first appropriated towards interest or towards the principal amount. The decree which is sought to be executed by the respondent does not indicate as to whether the amount is to be first appropriated towards interest or the principal.

3. Under Order 21 Rule 1(3) (c) of C.P.C the judgment debtor can indicate at the time of deposit/payment whether the money remitted is towards the principal, interest or costs. Admittedly, there was no such stipulation by the petitioner/judgment debtor in this case. A perusal of the impugned order would show that the Executing Court on threadbare consideration of the calculation amount has found that an amount of Rs.10,52,863.41 is due and payable as on 31/10/2016 and has upheld the calculation submitted by the respondent/decreed holder. Out of the said amount the respondent has admittedly withdrawn Rs.10,33,394/-. Although it was sought to be contended that the decree holder has not included the amount of Rs.2,01,870/- paid to the decree holder on 20/5/2013, the learned Additional Government Advocate, on instructions, submitted that the said amount has been taken into consideration even in the calculation submitted by the decree holder. In that view of the matter the impugned order does not

suffer from any infirmity so as to require interference in the revisional jurisdiction of this Court. The Revision application is accordingly dismissed with no order as to costs.

C. V. BHADANG, J.

Ap/-