

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 467 OF 2018

VASSUDEV P. NAIK, THR. POA,
ROOPESH V. NAIK AND ANR.,

... Petitioners

Versus

KRISHNA VITHOBA X. TILVE (DEC)
THR. LRS. AND ANR.,

... Respondents

Shri Galileo Francisco Teles, Advocate for the Petitioners.
Shri P.A. Kholkar, Advocate for the Respondents.

Coram:- NUTAN D. SARDESSAI, J.

Date:- 16th April 2018

ORAL ORDER:

Heard learned Counsel for the parties.

2. Shri P.A. Kholkar, learned Advocate appearing for the respondents concedes that during the pendency of the application under Section 47 of the CPC in the execution proceedings filed by him, the impugned order came to be passed disposing off the execution proceedings finally. Since it is shown from the records that the learned Judge had not addressed herself to the merits of the application under Section 47 of the CPC, the impugned order cannot be allowed to stand. To that extent, the impugned order is quashed and set aside and the matter is remanded to the Trial Court to give an opportunity to the petitioners herein on their

application under Section 47 of the CPC, hear the same and only then proceed to decide the execution proceedings as expeditiously as possible. The petitioners herein shall however not seek any further time to file their reply in the main execution proceedings and/or to pursue their application under Section 47 of the CPC. The Trial Court to dispose off the objections under Section 47 of the CPC and only then dispose off the execution proceedings latest by 31/12/2018.

3. Parties are directed to appear before the Trial Court on 2/05/2018 at 10.00 hrs. Petition stands disposed off accordingly.

NUTAN D. SARDESSAI, J.

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