

IN THE HIGH COURT OF BOMBAY AT GOA

SECOND APPEAL NO. 123 OF 2017

WALBRO CONSTRUCTION, THR. ITS
PROPRIETOR, ANIL KUMAR PURUSHOTTAM
WALAVALKAR(DEC) THR. HIS LRS., ... Appellant

Versus

FELICIA D'SOUZA., ... Respondent

Shri Nigel Da Costa Frias, Advocate for the appellant.

Shri Jatin Ramaiya, Advocate for the respondent.

Coram:- NUTAN D. SARDESSAI, J.

Date:- 1st March 2018

P.C.:

Heard Shri Nigel Da Costa Frias, learned Advocate for the appellant and Shri Jatin Ramaiya, learned Advocate for the respondent for sometime.

2. In the course of the arguments, it was borne out that the First Appellate Court had not considered the issue of limitation at all. Besides, it is also borne out that the appellant with the leave of this Court had produced a Sale Deed on record pursuant to which the appellant had disposed off the suit premises to the third party. In view thereof, a serious question would arise whether the suit for specific performance would at all be maintainable.

3. Both the learned Counsels submit that both the impugned

orders be quashed and set aside and the matter remanded to the learned Trial Court for a decision afresh.

4. In view thereof, the judgments of the Courts below are quashed and set aside and the matter remanded to the Trial Court to hear and decide the proceedings afresh with a liberty to both the parties to produce additional documents on record and to lead additional evidence, if any.

5. Parties are directed to appear before the Trial Court i.e. the Court of the Senior Civil Judge, Mapusa on 20/03/2018 at 14.30 hours.

6. The Trial Court is directed to dispose off the suit as expeditiously as possible and in any event before 31/12/2018.

7. The Appeal stands disposed off accordingly.

NUTAN D. SARDESSAI, J.

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