

Shephali

**IN THE HIGH COURT JUDICATURE AT BOMBAY
BENCH AT GOA
CIVIL APPELLATE JURISDICTION
COMPANY APPEAL NO. 7 OF 2007
AND
COMPANY APPLICATION NO. 33 OF 2007**

Gaffino Resorts & Motels Pvt Ltd & 7 Ors	...Appellants
<i>Versus</i>	
Sheila Anne McFarlane & Ors	...Respondents

Mr Amey Kakodkar, *for the Appellants.*
Mr Javed Gaya, *with Ms Vidya Chaudhari, for the Respondents.*

CORAM: G.S. PATEL, J
DATED: 21st August 2018

PC:-

1. The parties to this Company Appeal have settled not only their disputes here and consequently in a Company Petition No. 23 of 2005 but also in Petition No. 74 of 2013 that is pending before the Hon'ble National Company Law Tribunal in Mumbai and Special Civil Suit No. 100/05/III pending before the District Court, South Goa at Margao, Goa.

2. The Consent Terms tendered today are signed by the parties to the dispute including Appellants Nos. 1 to 6 and Respondents

Nos. 1(c), 2 and 3. Appellant No. 4 has signed on behalf of the other Appellants on the basis of a Power of Attorney that he holds except for Appellant No. 5, who has signed in person. The signed Consent Terms are taken on record and marked “X1” for identification with today’s date. The undertakings in the Consent Terms are accepted as undertakings to the Court.

3. Company Appeal No. 7 of 2007 stands disposed of in terms of the Consent Terms tendered.

4. In Clauses 9 and 10 of the Consent Terms, the parties have provided for the presentation of copies of these Consent Terms to the National Company Law Tribunal and to the District Court in Margao; to apply initially for adjourning these matters *sine die* and, thereafter, for a withdrawal in terms of the agreement in those two clauses.

5. The Company Appeal being disposed of in these terms, there will be no order as to costs. Company Application No. 33 of 2007 does not survive and is disposed of accordingly.

6. A scanned copy of the Consent Terms will be uploaded as Order No. 2 in this matter.

7. I must express my appreciation of the efforts by Mr Kakodkar and his team for the Appellants and Mr Gaya for the Respondents in bringing these disputes to a satisfactory close. It cannot have been easy going, especially given how long these disputes have remained

pending, and the considerable bitterness that grew over time. Matters were additionally complicated because Mr Gaya's clients were overseas, thus delaying communication and instructions. It is one thing in a contested litigation to appreciate the quality of advocacy at the Bar, and the assistance by counsel to the Court when it renders a judgment. But Courts seldom acknowledge the equally — possibly far greater — contribution of appearing lawyers when a difficult lawsuit, or clutch of lawsuits, reach a settlement *without* a decision on merits. Negotiating a settlement is by no means a trivial or effortless affair. It demands infinite patience, time, much labour, and a breadth of mind coupled with a fixity of purpose. It also calls for quite formidable skills of persuasion — the difference being that in a settlement a lawyer is not required to convince an obdurate judge so much as a frequently obstinate and always disgruntled client, always a far more daunting business. That these two sides were able to bring their respective sides together, and to coordinate so well with each other is a testament to their exceptional skills as lawyers.

(G. S. PATEL, J)