

IN THE HIGH COURT OF BOMBAY AT GOA
CIVIL REVISION APPLICATION NO.21 of 2018

Capt. Lance Irwin Lobo
and Anr. .. Petitioners

Vs.

Leila Almeida and Anr. .. Respondents.

Shri Nigel D'Costa Frias, Advocate for the petitioners.

Shri Shivan Dessai, Advocate for the respondents.

CORAM :- C. V. BHADANG, J.

Date : 13th July, 2018

ORAL ORDER :

Heard Shri Costa Frias, the learned Counsel for the petitioners and Shri Dessai, the learned Counsel for the respondents.

2. The challenge in this petition, at the instance of the petitioners, who are defendant nos.7 and 8 in the suit, is to the order refusing to reject the plaint under Order VII, Rule 11(a), (b) and (d) of the Code of Civil Procedure (CPC). Indisputably, the petitioners were not arrayed as defendants originally by the respondents/ plaintiffs and they were impleaded on the basis of an application under Order I, Rule 10 of CPC. The petitioners, after their impleadment, filed an application for rejection of plaint. The

Trial Court has refused to reject the plaint by the impugned order dated 28/02/2018.

3. Shri Dessai, the learned Counsel for the respondents has placed reliance on the decision of the Supreme Court in the case of ***Sejal Glass Ltd. Vs. Navilan Merchants Pvt. Ltd***; AIR 2017 SC 4477, in order to submit that even otherwise the plaint cannot be rejected in part as has been held by the Hon'ble Supreme Court.

4. Shri Costa Frias, the learned Counsel for the petitioners has placed reliance on the decision of this Court in the case ***M. V. "Sea Success I" Vs. Liverpool and London Steamship Protection and Indemnity Association Ltd and another***; AIR 2002 Bombay 151 and para 57 thereof, in order to submit that the Division Bench has held that there is no legal bar under Order VII, Rule 11 of CPC to reject the plaint against some of the defendants.

5. I am afraid, in view of the decision of the Supreme Court in the case of ***Sejal Glass Ltd*** (supra), by which this Court is bound, the plaint cannot be rejected as against some of the defendants.

6. For this reason alone, the order dismissing the application for rejection of plaint cannot be interfered with. The petitioners would be entitled to avail any other remedy, if any, available in law. Subject to this, the Civil Revision Application is dismissed.

C. V. BHADANG, J.

SMA