

IN THE HIGH COURT OF BOMBAY AT GOA**CIVIL APPLICATION NO.104 OF 2018
IN
FIRST APPEAL NO.57 OF 2018**

M/s. Naik Hotels

....Appellant

V/s

Jem Resorts Pvt. Ltd.

....Respondent

Mr. S.S. Kantak, Senior Advocate with Mr. Nikhil D. Pai, Advocate
for the Appellant.

Mr. A.D. Bhobe, Advocate for the Respondent.

**Coram :- S. C. GUPTE &
NUTAN D. SARDESAI, JJ.**

Date:- 8th JULY, 2019

ORAL ORDER :(Per S.C. GUPTE, J.)

This First Appeal challenges a decree passed in a
Special Civil Suit by Adhoc Senior Civil Judge at Panaji.

2. The civil application is for interim relief pending hearing and final disposal of the First Appeal. The applicant/appellant seeks stay of two particular directions passed in the suit. The first direction relates to grant of a power of attorney by the appellant herein (original defendants to the Special Suit) in favour of the respondent (original plaintiff) to enable the latter to obtain permissions/approvals to apply for

running of the hotel in compliance with the suit agreement. It is submitted that the direction is vaguely worded and does not arise out of the suit agreement between the parties. The second direction objected to is for refund of ₹18,00,000/- by the appellant to the respondent along with accrued interest.

3. In so far as the first direction is concerned, learned Counsel for the respondent is agreeable if the appellant makes a commitment to execute necessary forms and pay the requisite fees for repairs or reconstruction or running of the hotel as and when requested by the respondents. Learned Counsel for the appellant is agreeable to do so. Learned Counsel for the appellant is also agreeable to secure the refund of ₹18,00,000/- along with interest accrued as ordered by the Trial Court by executing a suitable Bank Guarantee within four weeks from today.

4. There is one more prayer on the part of the appellant in the Civil Application based on the photographs annexed to the Civil Application. It is submitted that the hotel building is in a bad condition and that physical damage caused to it needs to be assessed. It is submitted that permission be accordingly

granted to the applicant/appellant for carrying out a detailed assessment of the structural condition of the hotel and place the same on record before this Court. This appears to be a reasonable request considering the condition of the building.

5. The Civil Application is accordingly disposed of by accepting respective statements of the parties noted above and allowing prayer clause (A) of the civil Application. The applicant/appellant is directed to give a reasonable notice to the respondent as and when the assessment referred to in prayer clause (A) is to be made. The parties to act accordingly.

NUTAN D. SARDESSAI, J.

S. C. GUPTE, J.

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