

IN THE HIGH COURT OF BOMBAY AT GOA

APPEAL FROM ORDER NO. 14 OF 2017

WITH

CIVIL APPLICATION NO.71 OF 2017

Mr. Sonba Parashuram Kamat,
son of late Mr. Parashuram Kamat,
Indian National, aged 80 years,
sole proprietor of
M/s. Aristo Ship Management Services,
Shop No.1, Ground Floor,
Dr. Ernest Borges Bldg.,
Fr. Jose Vaz Road, Vasco da Gama,
Goa-403 802.

...Appellant.

Versus

- 1). Mr. Sajjan V. Kudav
son of Mr. Vasand Kudav,
and his wife
- 2) Mrs. Shakuntala Sajjan Kudav,
both Indian Nationals, major in age,
residents of H.No.146,
near Bharat Gas Godown,
Merces Vaddem, Vasco da Gama,
Goa-403 802.
- 3) Mr. Cosme Romaldo Silveira,
son of Mr. Lamartine Silveira,
Indian National, major in age,

resident of H.No.1784/1(3),
 near four lane highway,
 opposite Officers' Residential
 Colony Gate, Carvalho Building,
 Sancoale, Goa.

.... Respondents.

None for the parties.

Coram : M. S. SONAK, J.

Date : 15th October, 2020

ORAL JUDGMENT:

None for the parties. On previous occasions also, the position was the same. Since the appeal pertains to the year 2017, the same cannot be adjourned any further.

2. The challenge in this appeal is to the impugned order dated 15.03.2017, to the extent, this order, does not grant the appellant-plaintiff an order of attachment of the amount of ₹29,24,894/- pending disposal of Special Civil Suit No.32/2016/A.

3. In the impugned order, the learned Trial Court, has held that the appellant/plaintiff has made out a prima facie case in respect of payment of an amount of ₹7lakhs. On this basis, the learned Trial

Court, has passed the following Order:-

'ORDER

The application for conditional attachment under Order 38 Rule 5 of C.P.C. 1908, at Exb.6-D, stands partly allowed, pending the final disposal of the suit. The defendants no.1 and 2, are directed to deposit before this Court a sum of Rs.7 lakhs on or before the next date of hearing which shall be invested in the Nationalized Bank initially for a period of one year. Thereafter to continue till disposal of the case.

Pronounced in the Open Court.'

4. From the perusal of the impugned order, it cannot be said that there is any jurisdictional error or perversity as such. Therefore, it will not be possible to interfere with the impugned order particularly, at this stage, when, the suit must have substantially advanced.

5. However, this appeal is disposed of by directing the respondents to file an undertaking before the Trial Court that the respondents shall, without prejudice to right and remedies, deposit the decretal amounts before the Trial Court within a period of six weeks if, any such decree is indeed made against the respondents. Such deposited amount, shall then be paid to the appellant-plaintiff after the expiry of the appeal period and subject to there being no interim

relief granted by the Appeal Court. If any interim relief is granted by the Appeal Court, then, this amount, will abide by the orders of the Appellate Court.

6. With the aforesaid directions, this appeal is disposed of. There shall be no order as to costs.

7. The application for interim relief does not survive and the same is also disposed of.

M. S. SONAK, J.

msr.