

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION No. 661 OF 2019

Vishwas Santosh Malvankar And Anr.

.... Petitioners

V e r s u s

Santosh Atmaram Kale And Anr

.....Respondents

None for the Petitioners.

Mr. Mario Pinto Almeida, Advocate for Respondents No.1 and 2.

CORAM : M. S. SONAK, J

DATE : 15th June, 2021

P.C.

None for the petitioners. Mr. Mario Pinto Almeida, learned Counsel appears for respondents No.1 and 2.

2. In this matter, the petitioners were indulged by some interim relief subject to their depositing an amount of ₹3lac and remaining personally present before this Court on the next date. This was made clear in the order dated 30.07.2019. In pursuance of the order, the petitioners had deposited an amount of ₹3lac in this Court by cheque.

3. On 31.07.2019 the petitioners furnished an undertaking to this Court that an amount of ₹9lac will be deposited by 2 equal instalments within a period of 8 weeks. On this basis notices were issued to the respondents and even ad-interim was granted in terms of prayer clause (b). The order made it clear that if the undertaking is breached the interim relief will be vacated.

4. The petitioner No.1 who furnished the undertaking did breach the terms of the undertaking and failed to make any further deposits. Instead, the petitioners replaced their advocate and sought for time to engage another advocate. Despite indulgence being granted to the petitioners, on 13.09.2019 the petitioners once again sought for time to engage advocate. This Court, by order dated 13.09.2019 vacated the interim relief but granted the petitioners some reasonable time to engage an advocate.

5. Thereafter, when the matter came up on 15.01.2021, this Court, issued notices to the petitioners since, the petitioners were neither appearing themselves nor had made arrangements to engage any advocate to appear on their behalf. Despite efforts the notices could not be served upon the petitioners since, the bailiff reported that the petitioners were not to be found at the address indicated in the cause title. The report also indicated that enquiries were made with the neighbours who reported that the

petitioners are not residing at the stated address for the last 5-6 months.

6. The petitioners are challenging the orders made by the Authorities under the Consumer Protection Act, inter alia, ordering their arrest for failure to pay an amount of over ₹40lacs or thereabout to the respondents. The Authorities under the Consumer Protection Act had also directed the petitioners to deliver possession of certain premises to the respondents.

7. It is apparent that despite opportunities the petitioners are bent upon not complying with the orders made by such Authorities. Based on an undertaking, the petitioners secured interim relief from this Court but went on to breach such undertakings. The petitioners, in terms of the bailiff's report, are not to be found at the address indicated by them in the cause title.

8. Accordingly, no useful purpose will be served in continuing with the present petition. This petition is accordingly dismissed for non-prosecution. The interim relief granted earlier has already been vacated.

9. The respondents No.1 and 2 are permitted to withdraw the amount of ₹3lac deposited by the petitioners in this Court. However, the respondents No.1 and 2 will have to report such withdrawal before the

Authorities under the Consumer Protection Act, where, they seek execution. The Authorities, will have to grant credit to the petitioners in respect of the said amount.

10. The petition is disposed of in the aforesaid terms. There shall be no order as to costs.

11. All concerned to act on the basis of the authenticated copy of this order.

M. S. SONAK, J.

msr.