

Maria S.

IN THE HIGH COURT OF BOMBAY AT GOA

**MISCELLANEOUS CIVIL APPLICATION NO.93 OF
2021
IN
FIRST APPEAL NO.60 OF 2011**

State of Goa, through the Chief Secretary And 3
Ors.

.Applicants

Versus

P. B. Ibbrahim, rep. by his POA, Abdul Salam
Kallatra

...Respondent

**Ms. Priyanka Kamat, Additional Government Advocate for
the Petitioner.**

Mr. Vibhav Amonkar, Advocate for the Respondent.

**CORAM: M. S. SONAK &
R. N. LADDHA, JJ.**

DATED: 6th April, 2022

P.C.

Heard Ms. Priyanka Kamat, learned Additional
Government Advocate for the applicants and Mr. Vibhav
Amonkar, learned counsel for the respondent-original appellant.

2. Mr. Amonkar, learned counsel, quite fairly accepts that this application can be allowed in terms of prayer clause (a) because, some certain tax deductions had to be taken into account.

3. Accordingly, by consent, we allow this application in terms of prayer clause (a) which reads as follows:

' a) To allow the Application for modification of Judgment dated 08/02/2019 in terms of Para 4 and 5 of the present Application.'

4. Since, the prayer clause (a) refers to paragraphs 4 and 5 of the application, the contents thereon are also incorporated for convenience of reference:

'4. The Hon'ble High court while partly allowing the Appeal and awarding an amount of Rs.41,46,836/- (Rupees Forty One Lakh Forty Six Thousand Eight Hundred and Thirty Six only) i.e. the amount on Vth R.A. Bill has inadvertently has not deducted an amount of Rs.91,230/-(Income Tax)-A

Rs.62,203/- (Sales Tax)-B

Rs.1,825/- (Education Cess)-C

Rs.34,700/- (Paid amount)-D

A+B+C+D = Rs.1,89,958.00/-

Net Amount Payable (Vth R.A. Bill)=Rs.41,46,836/-

- Rs. 1,89,958.00/-

Rs.39,56,878/-F

Thus the actual amount payable to the Contractor in respect of Vth R.A. Bill is Rs.39,56,878/-.

II) *Due to termination of Contract, S. D. was forfeited Rs.39,50,000/- - G.*

III) *Therefore amount Payable = F+G
= Rs.39,56,878.00/- + Rs.39,50,000/-
= Rs.79,06,878/- + 6% interest.*

As against Rs.41,46,836/- + Rs.39,50,000/-

*Hereto annexed and marked as **EXHIBIT A COLLY** is the Calculation alongwith Judgment dated 8/02/2019 in First Appeal No.60/2011 and 33/2017.*

5. In view of the above calculations the total amount that will be payable in terms of the Judgment dated 08/02/2019 is Rs.79,06,878/- + 6% interest instead of Rs.80,96,836/- with 6% interest per annum as held by the Hon'ble court in the paragraph 46 of the Judgment dated 08/02/2019.'

5. This means that our Judgment and Order in First Appeal No.60 of 2011 dated 08.02.2019 will now stand modified as aforesaid and in terms thereof, the applicants will have to pay to the respondent an amount of ₹79,06,878/- plus 6% interest instead of the amount of ₹80,96,836/- plus 6% interest as held in paragraph 46 of the Judgment and Order dated 08.02.2019.

6. The necessary corrections to be, therefore, carried out in paragraph 46 of the Judgment and Order dated 08.02.2019 in First Appeal No.60 of 2011, both in the original order as well as

in the order uploaded on the website.

7. This application is disposed of.

R. N. LADDHA, J.

M. S. SONAK, J.