

Esha

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 126 OF 2023

VISHAL VINAYAK BANDEKAR ... PETITIONER
VS
KOTAK MAHINDRA BANK LTD.
THR. AUTHORIZED OFFICER
RAJESH PARDESHI KANOJIA &
ANOTHER ... RESPONDENTS

Mr. Nitin Sardesai, Senior Advocate with Mr. Kabir Sabnis,
Advocate for the Petitioner.

Mr. Raviraj Chodankar, Advocate for Respondent No. 1.

Mr. Sahil Sardesai, Advocate for Respondent No. 2.

CORAM: B.P. COLABAWALLA, J.

DATED: 1st MARCH 2023

ORAL ORDER:

1. By this Petition, the Petitioner assails the order dated 09.02.2023 passed by the Adhoc District Judge-2, North Goa at Panaji in Execution Application No. 3/2011.

2. By the impugned order, the Applications for the arrest of the Judgment Debtor [Petitioner] at Exhibits D-25, D-38 and D-57 were allowed. In fact, it has been brought to my attention that Exhibit D-25 was withdrawn by the Decree Holder [Respondent

No. 1] with the liberty to file an Application within the appropriate time. Despite this, for the same reasons, the Trial Court also decided Exhibit D-25.

3. Be that as it may, after I heard Mr. Sardesai, the learned Senior Counsel appearing on behalf of the Petitioner, as well as Mr. Chodankar, the learned Counsel appearing on behalf of Respondent No. 1 [Kotak Mahindra Bank Ltd.], both parties agreed that the impugned order be set aside and the matter be remanded back to the Trial Court for hearing the Applications afresh.

4. In view of the aforesaid consensus, the impugned order dated 09.02.2023 is set aside and it is directed that the Executing Court shall decide Exhibits D-38 and D-57 afresh on their own merits and in accordance with law. It is needless to clarify that all contentions of both sides are kept open to be agitated before the Trial Court.

5. The Writ Petition is disposed of in the aforesaid terms. No order as to costs.

6. This order will be digitally signed by the Private Secretary/
Personal Assistant of this Court. All concerned will act on
production by fax or email of a digitally signed copy of this order.

B.P. COLABAWALLA, J.

VAIGANKAR
ESHA SAINATH

Digitally signed by VAIGANKAR
ESHA SAINATH
Date: 2023.03.02 16:45:39 +05'30'