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IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 179 OF 2012

NOORALLAH VELJEE

... PETITIONER

VS

VERONICA GONSALVES E

MENEZES

... RESPONDENT

Ms. Madhavi Ramoji, Advocate for the Petitioner.

Mr. Anand Shirodkar, Advocate holding for Mr. Somnath
Karpe, Advocate for the Respondent.

CORAM: B.P. COLABAWALLA, J.

DATED: 4 JANUARY 2023

ORAL ORDER:

1. The above Petition was Admitted by an order dated 30 March 2012. At the time when the Petition was admitted, a stay was also sought for the operation of the impugned judgment. This Court stayed the operation of the judgment and decree dated 18 July 2006 passed in Regular Civil Suit No. 17/2000/C, subject to the Petitioner depositing all the arrears of rent due in this Court within a period of two weeks from the date of the order.

2. Admittedly, the arrears of the rent have not been deposited and it has been duly noted in several orders passed by this Court. In fact, on 21 December 2022, this Court, after noting the conduct

of the petitioner, placed the above matter on Board today for dismissal. Despite this, I have heard the learned Counsel appearing on behalf of the Petitioner and the learned Counsel appearing on behalf of the Respondent.

3. The order impugned in the present Writ Petition is the order dated 30 November 2011, passed by the Court of Adhoc District Judge-1, North Goa, Panaji in Miscellaneous Civil Appeal No. 71/2010. This Appeal was dismissed by the impugned judgment and order dated 30 November 2011.

4. I have carefully gone through the judgment and order passed by the Appellate Court.

5. The Appellate Court has passed a detailed judgment and order whilst dismissing the Appeal. The Appellate Court has also taken note of the conduct of the Petitioner herein (Defendant before the Trial Court/Appellant before the Appellate Court). Even before the Trial Court, the Petitioner has not deposited the arrears of rent as directed. The Appellate Court has come to the conclusion that the Trial Court was justified in passing an eviction order against the Petitioner as the Petitioner was not at all diligent in appearing before the Trial Court. The Appellate Court noted

that no written statement was filed by the Petitioner even after about 90 odd adjournments had been granted and a number of opportunities had been given to the Petitioner. The Appellate Court also noted that the Petitioner was not an uneducated person or was sick throughout to not appear before the Trial Court. In fact, the Appellate Court has come to a categorical finding that the explanations offered by the Petitioner are not bonafide and smack of malafides and are put forth only as a part of dilatory tactics. The Appellate Court, therefore, came to the conclusion that the findings of the Trial Court are thus without any blemish and therefore, cannot be interfered with in Appeal.

6. After having perused the judgment and order passed by the Appellate Court, it is apparent that the Petitioner herein (Defendant before the Trial Court/Appellant before the Appellate Court) was given ample opportunities to defend the suit filed by the Respondent herein (Plaintiff before the Trial Court/Respondent before the Appellate Court). Despite that, the Petitioner did nothing. This is apart from the fact that, even the order passed by this Court on 30 March 2012 for deposit of arrears of rent has not been complied with till date. Having gone through the judgment of the Appellate Court, I find that the same is a well reasoned judgment and order and has taken all facts into

consideration before dismissing the Appeal. I, therefore, do not find any reason to exercise my equitable and extraordinary jurisdiction under Article 227 of the Constitution of India to interfere with the impugned judgment and order.

7. In these circumstances, the Writ Petition is dismissed. However, purely out of mercy, I am not awarding any costs.

8. 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
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