Suchitra

IN THE HIGH COURT OF BOMBAY AT GOA

SECOND APPEAL NO.139/2011

MANGUIRISH CARGO CARRIERS
REP. BY ITS PROPRIETOR SHRI
ANANT DHARESHWAR ...APPELLANT

Versus

RAJESH ROAD LINES PVT. LTD. … RESPONDENT

Mr A. D. Bhobe with Ms A. Fernandes, Advocates for the Appellant.

Ms Reshma Kantak, Advocate for the Respondent.

CORAM: M. S. SONAK, J.

DATED: 2nd MAY 2024

P.C.:

1. Heard Mr A. D. Bhobe with Ms A. Fernandes for the appellant and Ms Reshma Kantak for the respondent.

2. This appeal was admitted on 16.11.2011 on the following substantial questions of law:

> (a) Whether on account of the undisputed facts that the transaction between the Appellant and the Respondent being a commercial transaction the Appellate Court could have reduced the rate of interest of 18% granted by the Trial Court on the amount payable by the Respondent to

the Appellant more so on account of the fact that the rate of interest could not be in dispute as the Respondent who had raised an alleged claim against the Appellant had also claimed interest @ 18% per annum ?

(b) Whether the findings of the Appellate Court of the amount of Rs.68,862/- claimed by the Appellant was time barred are perverse and contrary to records ?

3. After the matter was argued for some time, the learned counsel for the parties based on instructions from their parties, agree that this Second Appeal can be disposed of by directing the respondent to pay the appellant a sum of ₹7,50,597/- in full and final settlement of their claims against each other.

4. The above figure has been arrived at by taking the principal amount at ₹1,90,991/-. This was the amount accepted by the appellant before the Council for Fair Business Practises, Mumbai. The trial court in this case had awarded interest @ 18% p.a. and the first appellate court reduced the interest to 8% p.a. Now it is agreed between the parties that the interest should be 12% p.a. Based on this agreement, the amount of ₹7,50,597/- has been computed and agreed.

5. Ms Kantak states that the respondent will, by 09.05.2024 pay the appellant the amount of ₹7,50,597/- in full and final settlement. She states that such amount would either be paid by demand draft which will be brought to this Court by 09.05.2024 or the amount will be directly transferred into the appellant's

bank account before 09.05.2024. These statements are accepted as undertakings given to this Court. Upon such payment and its confirmation by the learned counsel for the appellant, the bank guarantee furnished by the respondent should be discharged by the Registry by issuing necessary communication to the bank and a copy to the respondent.

6. The impugned judgment and decree is modified in above terms. This appeal is disposed of. But the matter is posted on 09.05.2024 for directions/orders to enable Ms Kantak to report compliance.

M. S. SONAK, J.

SUCHITRA NANDAN SINGBAL
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