



Esha

IN THE HIGH COURT OF BOMBAY AT GOA
APPEAL FROM ORDER NO.33 OF 2023

MAYA REAL ESTATE AGENT AND
DEVELOPER REP BY ROSARIO FRANISCO
BARRETO

... APPELLANT

Versus

TRIPLE A POINT HOTELS AND RESORTS
LTD

... RESPONDENT

Mr. S.D. Padiyar with Ms. Akshata Rane, Advocates for the
Appellant.

CORAM:- BHARAT P. DESHPANDE, J.

DATED :- 4th July, 2024

P.C.

Heard Mr. Padiyar for the Appellant.

2. The Appeal is filed challenging the order passed by the Trial Court dated 04.08.2023 whereby the Application filed by the Appellant-Plaintiff to register the suit as a Commercial Suit is allowed. Mr. Padiyar fairly concedes that the Appellant-Plaintiff applied before the said Court, but since the valuation is more than Rs.1 crore, the dispute is a commercial dispute and therefore, the suit has been registered as a Commercial Suit. Even the Defendant agreed and gave no objection. The learned Trial Court accordingly accepted such Application, however, observed that mandatory provisions of Section

12-A of the Commercial Courts Act will have to be followed.

3. Accordingly, an order was passed by the learned Trial Court to return the plaint for presentation before the appropriate Forum by applying the provisions of Section 12-A of the Commercial Courts Act. Mr. Padiyar now submits that the suit is not a Commercial Suit as held by the Apex Court in the case of Ambalal Sarabhai Enterprises Limited Vs. K.S. Infraspace LLP and Another, (2020) 15 SCC 585.

4. It is not necessary for this Court to go into this aspect as the Appellant has the remedy to approach the Civil Court by filing a Review Application since it is purely a question of law as to whether the dispute between the parties is a commercial dispute or a civil dispute. Liberty is granted to the Appellant to approach the learned Senior Civil Judge, who passed the said order with a prayer to review its own order and to consider whether the dispute is a commercial dispute or a civil dispute.

5. If such an Application is filed within a period of two weeks, the learned Trial Court shall decide it on its own merits and after hearing both sides. The learned Trial Court shall consider that the Appellant filed an Appeal before this Court and was prosecuting the same under the bonafide belief without approaching the same Civil Court for review.

6. In view of the above observations, the Appeal stands disposed of with liberty as mentioned herein above.

BHARAT P. DESHPANDE, J.