

vinita

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.1212 OF 2024 (F)

ARDEE FOUNDATION THR. ITS
CHAIPERSON SHEFALI VARMA

... PETITIONER

Versus

HECTOR JOSE NEVES MASCARENHAS THR.
CONSTITUTED ATTORNEY RAHUL
JONATHAN MASCARENHAS AND 2 ORS

... RESPONDENT

Mr Shivan Desai and Mr Nathan Vas, Advocate for the petitioner.

CORAM:- BHARAT P. DESHPANDE, J.

DATED :- 9th May, 2024

P.C.

Heard Mr S. Desai, learned counsel for the petitioner.

2. The petition is challenging the order passed by the learned trial Court under Order 15-A of CPC thereby directing the petitioner to deposit a sum of Rs.3 lakhs per month towards the rent in respect of the suit property from August 2018 until locking period of the lease expires.

3. Mr Desai submits that though there was a deed of lease executed between the parties, petitioner within a period of six months forwarded termination notice on the premises that suit land was not suitable for operating school for which lease was executed. He submits that even the premises in the property is not useful and suitable for the purpose of operating school. Mr Desai would submit that an amount of Rs.18

lakhs is already available with the respondents, however learned trial Court failed to consider this aspect and exercised jurisdiction incorrectly by directing the petitioner to deposit rent for three years which comes to around Rs.90 lakhs.

4. Mr Desai would submit that the petitioner to show his bonafide and the fact that the suit lease is not used, is ready and willing to deposit 50% of the rent within a period of six weeks from today before learned trial Court. He submits that such 50% shall be after deducting security deposit of Rs.18 lakhs.

Issue notice to the respondents returnable on 19.6.2024. Apart from regular service, service by all other modes is permitted.

5. The impugned order dated 27.12.2023 passed by the learned trial Court is stayed subject to 50% deposit. Said amount less security deposit of Rs.18 lakhs, within a period of six weeks from today, with the understanding that such amount shall remain invested in a fixed deposit with the concerned Court till further orders.

BHARAT P. DESHPANDE, J.