

ITEM NO.20 Court 5 (Video Conferencing) REVISED*
SECTION IX

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s). 15656/2020

(Arising out of impugned final judgment and order dated 04-12-2020 in AFO No. 40/2016 passed by the High Court Of Judicature At Bombay At Goa)

PRANOTI SUDESH DALVI & ORS. Petitioner(s)

VERSUS

SURESH RAGHUVIR PRIOLKAR & ORS. Respondent(s)

(IA No. 133822/2020 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Date : 07-01-2022 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE L. NAGESWARA RAO
HON'BLE MR. JUSTICE HRISHIKESH ROY

For Petitioner(s) Mr. Yogesh Nadkarni, Adv.
 Mr. A Raghunath Adv.
 Mr. A. Raghunath, AOR

For Respondent(s)* Mr. Ninad Laud, Adv
 Mr. Aditya Pratap Swain, Adv.
 Mr. Sahil Tagotra, AOR

UPON hearing the counsel the Court made the following
O R D E R

The respondents have filed a suit for declaring the agreement dated 20.11.1996 as void. The suit was decreed *ex parte* and the application filed for setting aside the said *ex parte* decree by the petitioners was dismissed. The High Court remanded the matter back to the Trial Court. The Trial Court affirmed the order passed earlier. Thereafter, the petitioners filed an appeal against the order passed by the Trial Court which was disposed on

04.10.2020 in the following terms:

(A) The impugned Order dated 09.02.16 is set aside and the defendants' application for setting aside of ex parte judgment and decree dated 11.01.2010 is partly granted subject to the following conditions:

(i) The defendants shall pay cost of Rs. 1,00,000/- (Rs. One lakh) to the plaintiffs within a period of four weeks from today; and

(ii) The defendants shall deposit with the Trial Court the principal amount of Rs. 28,25,000/- (Rs. Twenty eight lakh twenty five thousand) within a period of eight weeks from today.

(B) In case there is no compliance with the aforesaid conditions, this appeal will be deemed to have been dismissed without any further reference to this Court.

(C) It is clarified that the ex parte decree dated 11.01.2010 in relation to prayer clauses (b), (c) and (d) is maintained and not set aside. Only the ex parte decree in relation to prayer clauses (e) and (f) is set aside subject to compliance with the aforesaid conditions within

the stipulated period.

(D) If the aforesaid conditions are indeed complied with the Special Civil Suit No. 20/2005/A shall stand restored in relation to plaintiff's claim for damages. In such a restored suit, however, the defendants shall be entitled to lead evidence in respect of all defenses raised by them notwithstanding the concession now made on their behalf in relation to prayer clauses (b), (c), (d) of the ex parte decree.

(E) The Trial Court, in such an eventuality is directed to dispose of such restored suit as expeditiously as possible and in any case within a period of six months from the date of compliance with condition (A)(ii) relating to deposit of principal amount of Rs. 28,25,000/- (Rs. Twenty eight lakh twenty five thousand) before it.

(F) The Trial Court to order investment of the deposited amount in terms of condition (A)(ii) if complied in any Nationalized bank and such deposit together with any interest which will be accrued thereon shall abide by the final decree which will be made in such restored suit.

(G) The Trial Court while disposing of restored suit shall not be influenced by any observations made in the impugned order as also to the present order. The restored suit will have to be decided on its own merits and in accordance with evidence which the parties will lead before the learned Trial Court.

(H) The appeal is partly allowed in the aforesaid terms.

Notice was issued in the Special Leave Petition only relating to the direction given by the High Court to the petitioners to deposit an amount of Rs. 28,50,000/- (Rs. Twenty eight lakh fifty thousand) within a period of eight weeks. Without interfering with any other condition contained in para 29, in the interest of justice, we are of the opinion that the direction to deposit an amount of Rs. 28,50,000/- (Rs. Twenty eight lakh fifty thousand) is modified to 50% of the said amount. The petitioners shall deposit 50% of Rs. 28,50,000/- (Rs. Twenty eight lakh fifty thousand) within a period of four weeks from today. We are informed that the trial has commenced. The trial Court is directed to decide the suit expeditiously.

Hence, Special Leave Petition and pending application(s), if any, stands disposed of.

(ROHIT KUMAR VERMA)
SENIOR PERSONAL ASSISTANT (SH)

(ANAND PRAKASH)
BRANCH OFFICER

* Revised only for the purpose of appearance.