

Niti

IN THE HIGH COURT OF BOMBAY AT GOA

**CIVIL APPLICATION NO.34 OF 2024
AND
MISC. CIVIL APPLICATION NO.195 OF 2024
IN
FIRST APPEAL NO.45 OF 2024**

SURESH VITHAL JOSHI AND
ANR. ... APPLICANTS

Versus

PERPETUA DEODITA DA GAMA
E MACIEL AND 3 ORS. ... RESPONDENTS

Mr P. Arolkar, Advocate for the Applicants.
Mr Milton Marshal, Advocate for the Respondent Nos.1 to 3.

CORAM: M. S. SONAK, J.

DATE: 25th APRIL 2024

P.C. :

- 1.** Heard Mr Arolkar for the applicants and Mr M. Marshal for respondent nos.1,2 and 3 (claimants).
- 2.** In terms of the impugned award of which stay is applied for by the applicants, the applicants are directed to pay to the claimants an amount of ₹27,58,000/- (Rupees Twenty Seven Lakhs Fifty Eight Thousand only) by way of compensation for the death of husband and father of the claimants.

3. The Insurance Company has been absolved and the applicants' case is that such absolvment is not proper.

4. Ordinarily, since the appeal is admitted, a stay could have been granted subject to the appellants depositing the awarded amount in this Court. However, Mr Arolkar states that the applicant is not in a position to deposit any amount and, therefore, an application for dispensing a deposit has been filed.

5. Mr M. Marshal points out that the first appellant is working in Saudi Arabia and, therefore, the statement that he is unable to deposit any amount cannot be taken at face value. Mr Marshal points out that the execution application is already filed, though, notice is to be served upon the appellants.

6. Now that the applicant has instituted this appeal and applied for a stay, it is only proper that the applicant accepts notice in the execution proceedings through his Counsel Advocate P. Arolkar.

7. Since the applicant has clearly stated that he is unable to deposit any amount in this Court, it would not be appropriate to grant any unconditional stay. Mr Arolkar states that he is not even in a position to deposit 50% of the awarded amount or the 50% of the principal amount awarded.

8. In the above circumstances, no useful purpose would be served in staying the execution of the award and prolonging the agony of the claimants.

9. Accordingly, both the civil applications, i.e. application for stay and dispensation, are hereby dismissed. The applicant to accept notice in the execution proceedings through his Counsel Mr Arolkar and the execution proceedings to be disposed of expeditiously.

M. S. SONAK, J.

NITI KISHOR
HALDANKAR

Digitally signed by NITI
KISHOR HALDANKAR
Date: 2024.04.26
14:40:04 +05'30'