

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 247 OF 2015

MRS. RITA MARGARIDA ARAUJO. ... Petitioner
Versus
MR. ANTONIO SOUSA. ... Respondent

Mr. D. Vernekar, Advocate for the Petitioner.

Coram:- M. S. SANKLECHA, J.

Date:- 1st April, 2015

ORAL ORDER :

This petition under Article 226 of the Constitution of India challenges the order dated 24/02/2015 passed by the Civil Judge, Senior Division at Vasco.

2. By the impugned order the petitioner's application to recall the witness of the respondent herein (petitioner in the Trial Court) for further cross-examination was rejected.

3. The application made by the petitioner to recall the witness was for the purpose of cross-examination on the basis that certain aspects of the matter had remained to be cross-examined when the witness was made available for cross-examination. The impugned order records that the witness sought to be recalled and all other witnesses of the respondent were cross-examined by the petitioner. The application under Order XVIII Rule 17 of the Civil Procedure Code

allows the Court to recall a witness on an application at the instance of the parties if the Court is satisfied that the recall of the witness is necessary. The impugned order records that the power of recalling a witness is not available so as to fill in the lacuna in the evidence already recorded. This power of recall of a witness is to be exercised only when it is necessary in the interest of justice and to be exercised in exceptional cases. In the present facts, no fault can be found with the impugned order. The cross-examination of the respondent's witness sought to be recalled was completed in June, 2014 while the present application has been filed on 17/01/2015.

4. For all the aforesaid reasons, no fault can be found in the impugned order. Accordingly, petition is dismissed.

M. S. SANKLECHA, J.

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