

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO.427 OF 2015**

1. Zuari Agro Chemicals Limited,
(formerly known as Zuari Holdings Limited)
a Company registered under the
Companies Act, 1956 and having its
Registered Office at Jai Kisaan Bhawan,
Zuari Nagar, Goa, 403 726.

2. Zuari Global Limited,
(formerly known as Zuari Industries Limited)
a Company registered under the Companies
Act, 1956 and having its Registered Office
at Jai Kisaan Bhavan Zuarinagar, Goa 403 726. Petitioners.

V/s

1. National Highway Authority of India,
a Statutory Authority having its office
at G-5 & 6, Sector 10, Dwarka,
New Delhi 110 075.

2. Mormugao Port Road Company Ltd.,
a Company having its office near
Dr. Babasaheb Ambedkar Vocational Centre,
Old Primary Helath Centre, MPT,
Mormugao, Goa 403 804.

3. KMC Constructions Limited,
a company having its office at
Door No.1-80/40/SP/58-65,
Shilpa Homes Layout, Gachibowli,
Hyderabad 500 032.

4. Aarvee Associates Architects
Engineers & Consultants Pvt. Ltd.
a company having its office at 8-2-5,
Ravula Residency, Sringer Colony,
Hyderabad 500 082.

... Respondents

Mr. S.D. Padiyar with Mr. Adish Halarnkar, Advocate for the Petitioners.

Mr. Rakesh L. Singh, Advocate for Respondent No.1.

CORAM : F.M. REIS, J.

DATE : 17th JULY, 2015

ORAL JUDGMENT :

Rule. Heard forthwith with the consent of the learned Counsel.

Learned Counsel appearing for the respondent no.1 waives service.

2. The above petition, inter alia, takes exception to the order dated 8/04/2015 passed by the learned Trial Judge, whereby an application filed by the petitioners to lead secondary evidence came to be dismissed.

3. Upon hearing the learned Counsel appearing for the petitioners and the learned Counsel appearing for respondent no.1, it is the contention of Mr. Padiyar, learned Counsel for the petitioners that the petitioners have sought leave of the Court to lead secondary evidence in respect of four different documents which are as follows:

- (a) Bills of lading from Dubai Shipping Company LLC with Emirates National Oil Company (Singapore) Pvt. Ltd.
- (b) Discharge Receipt dated 2/01/2012 possession of Oman Insurance Company Ltd.
- (c) Letter dated 5/05/211 – Ministry of Chemicals and

Fertilizers, Government of Goa.

(d) Notification dated 29/03/2010 – Ministry of Agriculture.

4. Documents at serial no.(c) and (d) are with regard to the official documents/notification issued by the Central Government. As far as the official notification issued by the Central Government notified in the Official Gazette, the learned Judge was not justified to refuse leave to produce the said documents. As far as the remaining documents are concerned, the petitioners have to proceed in terms of procedure laid down in Section 65 of the Evidence Act and serve the requisite notice to the concerned parties to produce the originals of such documents and in case of failure to produce such documents the learned Judge shall examine the application in accordance with law.

5. In view of the above, I pass the following order:

O R D E R

(i) The impugned order dated 8/04/2015 is quashed and set aside.

(ii) The learned Judge shall proceed to examine the application in the light of the above observation in accordance with law.

(iii) Rule is made absolute in the above terms. Parties to act on the authenticated copy.

F.M. REIS, J.

NH/-