

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO.101 OF 2014**

Shri Gurbachan Singh Mansurpuri
s/o. late Mr. Khazan Singh
Major in age, Married, businessman,
r/o. Mercas, Tiswadi, Goa. ... Petitioner

V/s

Shri P.K. Rajagopalan
S/o. late Mr. K. Palani,
Major in age, married,
businessman, r/o. Valankani
House, Behind Santa Cruz
Church, Tiswadi Goa. ... Respondent

Ms. P. Kaur, Advocate for the Petitioner.
Shri P. Lotlikar, Advocate for the Respondent.

CORAM : C.V. BHADANG, J.

DATE : 28th JUNE, 2016

ORAL JUDGMENT :

Rule. The learned counsel for the respondent waives service. Heard finally by consent of the parties.

2. By this petition, the petitioner is challenging the order dated 12/11/2013 passed by the learned District Judge, Panaji, in Regular Civil Appeal No.403/2010. By the impugned order,

the learned District Judge has held that the appeal would not be maintainable before the District Court, inasmuch as, the impugned judgment is passed by an Adhoc District Judge, who is of the same cadre, as that of the District Judge.

3. The parties do not dispute that this Court in a batch of First Appeals being First Appeal No.284/2008 & Ors. by judgment and order dated 5/02/2016 has held in similar circumstances that the appeal would lie before the District Judge, even where the trial is held by the Adhoc District Judge. The learned Counsel for the parties do not dispute that the present petition is covered by the decision of this Court in First Appeal No.284/2008 and others. Hence, the following order is passed:

ORDER

(i) The petition is allowed.

(ii) The impugned order dated 12/11/2013 is hereby set aside.

(iii) Regular Civil Appeal No.403/2010 is restored back to the file of the learned District Judge, Panaji, for disposal according to law.

(iv) The parties to appears before the learned District Judge on 18/07/2016 at 10.00 a.m.

(v) Rule is made absolute in the aforesaid terms, with no order as to costs.

C.V. BHADANG, J.

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