

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 206 OF 2016

1. Shri Vassudev Sitre Naik, of major age,
2. Smt. Devki Vassudev Naik, wife of Shri Vassudev Naik, of major age,
3. Smt. Chandravati Kashinath Naik, widow of late Kashinath Sitre Naik, aged 61 years,
4. Miss. Vishranti Kashinath Naik, daughter of Kashinath Naik, Spinster, major of age,

All residing at House No. 518,
Poriem, Belwada, Sattari-Goa.

5. Shri Vishnu Chandrakant Naik, son-in-law of late Shri Kashinath Naik, aged 56 years and his wife,
6. Smt. Rukmini Vishnu Naik, daughter of late Shri Kashinath Naik, aged 45 years,

Both residing at House No. 156,
Vazre, Kalkekar Wadda, Taluka
Sawantwadi, District Sindhudurg,
Maharashtra.

7. Shri Pandurang Aklem Naik, of major age,
8. Smt. Rukmini Pandurang Naik, wife of Shri Pandurang Naik, of major age,

9. Smt. Vassanti Jayu Naik,
10. Miss. Sushma Vassanti Naik,
11. Shri Vishwanath Vassanti Naik,
12. Miss. Sitre Vassanti Naik,

All residing at Belwado, Poriem,
Sattari, Goa.

13. Smt. Parvati Shankar Naik,
14. Shri Shrikant Mogre Naik,
15. Smt. Rajashree Shrikant Naik,
16. Smt. Shanta Jana Naik,

All of major age and residing at
Belwado, Poriem, Sattari- Goa.

.... Petitioners

Versus

1. Shri Ladu Shiva Gurav, of major age
and his wife,
2. Smt. Yessu alias Satyabhama Ladu
Gurav, of major age,

Both residing at Belwado, Poriem,
Sattari – Goa.

.... Respondents

Mr. Shivan Desai, Advocate for the Petitioners.

Mr. S.R. Rivankar, Advocate for the Respondents.

CORAM:- S.B. SHUKRE, J.

DATE:- 3rd MARCH, 2016.

ORAL JUDGMENT:

Heard. Rule. Rule made returnable forthwith. Heard finally by consent of the parties.

2. It is seen that the ground taken is that an opportunity for leading additional evidence has been denied as in the opinion of the trial Court, the order of closure of plaintiff's evidence dated 14.10.2016 could not be set aside and that it is for the petitioners to approach the appellate Court and get the order set aside, which finding is perverse and causes failure of justice.

3. Having considered the nature of the controversy involved in this case, I am of the view that in such cases, parties should be permitted to lead evidence by giving them sufficient opportunity in the interest of justice and also to avoid multiplicity of proceedings. Ultimately, it is for the Court to see that justice is done between the parties and the cases before it are not dismissed and rejected on some technical grounds. If any inconvenience is caused to the other side by some acts of

commission or omission on the part of the party seeking to lead the evidence, in some of the cases, it could be compensated in terms of money. This case is one of those cases. In this view of the matter, I am inclined to allow the Writ Petition conditionally.

4. The impugned orders dated 14.10.2015 and 20.01.2016 are quashed and set aside. Petitioners are permitted to lead additional evidence, which he shall tender and complete within a period of two weeks from the date of the order, on payment of costs of Rs.1000/- each to the respondent nos. 1 and 2, within a period of two weeks from the date of the order. It is further directed that the petitioners shall not seek any adjournment except in cases where the petitioners are prevented by some extra ordinary circumstances. The trial Court shall give priority to this case so that the progress of the suit is not hampered.

5. Rule is made absolute in these terms. No costs.

S. B. SHUKRE, J.