

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO.217 of 2015**

1. Mr. Sunil S. Dessai,
aged about 35 years,
S/o of Mr. S. Dessai,
R/o Flat F, First Floor,
Durga Apartment,
Salvador-do-Mundo,
Porvorim, Bardez, Goa
 2. Mr. Sunil Harischandra Edwankar,
aged about 60 years,
S/o Harishchandra Edwankar,
R/o Shanti Co-op. Hsg. Society Ltd.,
Flat No.6, Ground Floor,
Unnat Nagar, (Part 2),
S. V. Road, Goregaon (W),
Mumbai.
- .. Petitioners
(Original Defendants)

Versus

Mr. Collin Terence Rodrigues,
aged 38 years, s/o late Venille
Patrick Rodrigues, in service
at Indian Merchant Navy,
residing at B-10, Lubin Apartments,
Tank Road, Orlem, Malad (West),
Mumbai - 400 064; represented
by lawful attorney, Shri Joseph
D'Souza.

.. Respondent
(Original Plaintiff)

Mr. V. R. Tamba and Mr. Y. S. Naik, Advocates for the petitioners.

Mr. N. Sardessai, Senior Advocate with Ms. S. Pereira, Advocate
for the respondent.

CORAM :- S. B. Shukre, J.

Date : 12th January, 2016.

ORAL JUDGMENT :

Heard.

2. Rule. Rule, made returnable forthwith. Heard finally, by consent.

3. The learned Senior Counsel appearing for the respondent states that if the impugned order is allowed to stand and PW2 Mr. Joseph D'Souza is permitted to be recalled for re-examination, the plaintiff would not seek alteration of the question put to this witness in the cross-examination, taken on behalf of the defendants which reads as under :

“Question : How did the builder hand over possession of the suit flat to the plaintiff in the year 2008, can you explain?”

He further states that this witness would be questioned only with a view to elicit some further explanation that he may have to give in response to the question so framed and put to him.

4. By this statement, the purpose of the petitioners should be served, as it is their contention that what has been sought to be done in the re-examination is a change of the question so framed and put to the said witness during his cross-examination.

5. In this view of the matter, it is obvious that no prejudice would be caused to the petitioners in their defence and, therefore, there is no reason for me to make any interference with the impugned order.

6. Accordingly, the petition is disposed of, subject to the observations made hereinabove.

7. Rule is made absolute in these terms.

S. B. Shukre, J.

SMA