

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 443 OF 2015

Ignatius Tony Pereira,
Aged 52 years, Indian National,
Civil Engineer,
R/o 86/D, Baga,
Cansaulim, Goa.

..... Petitioner

V e r s u s

1. Travel Corporation (India) Pvt. Ltd.,
1st Floor, Citi Center,
19, Patto Plaza, Panaji,
Goa.

2. Mr. Pifran Sanjivan Fernandes,
aged 44 years, Civil Engineer,
R/o Praial, H. No.120,
Cansaulim, Goa.

..... Respondents.

Mr. J. J. Mulgaonkar, Advocate for the Petitioner.

Mr. Suresh Usgaonkar, Advocate for Respondent No.1.

Mr. Parag S. Rao, Advocate for Respondent no.2.

CORAM: S. B. SHUKRE, J .
DATE: 10TH FEBRUARY, 2016.

ORAL JUDGMENT:

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

2. According to the learned counsel for the petitioner the certificates in

question comply with the essential requirements of section 65B of the Indian Evidence Act, 1872 which has been seriously disputed by the learned counsel for respondent no.1 and respondent no.2, respectively.

3. Although the impugned order does not give the reasons disclosing as to what really was in the mind of the learned Magistrate in rejecting the application at Exhibit 118 praying for grant of permission to take the certificates in question on record, the fact remains that the petitioner has to answer the test of section 65B of the Indian Evidence Act in a satisfactory manner, which apparently does not seem to be the case here. Be that as it may. Rejection of such an application need not cause any prejudice to the case of the petitioner as it shall always be open to him to produce fresh certificates, which in the opinion of the petitioner, are compliant with section 65B requirements. Therefore, in my opinion, purpose of the petition shall be served by giving the petitioner liberty to file fresh certificates as required under section 65B.

3. In the result, following order is passed:

a) There is no need to interfere with the impugned order. However, liberty is given to the petitioner to file fresh certificates as required under section 65B and if such liberty is asserted by the petitioner, the admissibility of these certificates shall be decided by the Trial Court in

accordance with law and in that case, hearing to both sides shall be granted. All contentions of the rival parties on merits of the case relating to admissibility of the fresh certificates, if any, under section 65B of the Indian Evidence Act are kept open.

- b) It is made clear here that this order shall not be read as giving permission to the petitioner to make out entirely a new case in respect of production of electronic record or to be precise, the manner in which the documents are sought to be produced by way of secondary evidence.
- 3) Rule is made absolute in these terms.
- 4) The writ petition stands disposed of accordingly.

S. B. SHUKRE, J.

Ap/-