

IN THE HIGH COURT OF BOMBAY AT GOA.

WRIT PETITION NO.873 OF 2016.

- 1 Shri Chidambar Ramesh Chanekar, Major in age, S/o late Ramesh Chanekar,
- 2 Mrs. Surekha Chidamber Chanekar, Major in age, W/o Shri Chidamber R. Chanekar, Both R/o Plot No.A-21-A, Shri Kamaxi Duplex Bungalow, Vasant Nagar, Kare Hill, Gogol, Margao-Goa. Petitioners.

versus

- 1 Shri Navanand Ramesh Chanekar, Major in age, S/O late Ramesh Chanekar,
- 2 Mrs. Sushma N. Chanekar, Major in age, Both resident of House No.57, Sarvodem, Navelim, Salcete Goa. Respondents.

Shri M. Amonkar, Advocate for the petitioners.

Shri V. G. Pai Dukle, Advocate for the respondent nos. 1 and 2.

CORAM : F. M. REIS, J.

DATE : 30th November, 2016.

ORAL JUDGMENT

Heard Shri M. Amonkar, learned Counsel appearing for the petitioners. Shri V. G. Pai Dukle, Advocate for the respondent nos. 1 and 2.

2. Rule.

3. Heard forthwith with the consent of the learned Counsel appearing for the respective parties. The learned Counsel appearing for the respondents waives notice.

4. The challenge in the above petition is to an order dated 1.4.2016 whereby the cross of PW1 on behalf of the petitioners was closed and the subsequent order dated 26.8.2016 whereby the evidence of the petitioner was closed by the learned Civil Judge, Junior Division at Margao. There were rival contentions raised claiming justification or otherwise by the learned Judge while passing the impugned orders. Though Mr. Dukle, learned Counsel appearing for the respondents has strenuously brought to my notice that the petitioners have been negligent in pursuing their defence, nevertheless, Mr. Amonkar, learned Counsel appearing for the petitioners submitted that substantial cross examination of PW1 was carried out but the cross could not be completed in view of the inability of the advocate to remain present as he had other pressing engagements.

5. It cannot be disputed that the Courts cannot subscribe to unnecessary successive adjournments but in the peculiar facts and circumstances of the case, the following order is passed by consent.

ORDER

- (i) The impugned orders dated 1.4.2016 and 26.8.2016 are quashed and set aside subject to the petitioners paying costs of ₹20,000/- (Rupees twenty thousand only) to the respondents within three weeks from today as a condition precedent.
- (ii) The Regular Civil Suit No.215/2011/E is restored to the file of the learned Civil Judge, Junior Division, at Margao. The learned Judge shall proceed to permit the petitioners to further cross examine PW1 and proceed to record evidence of the respondents and the petitioners in accordance with law.
- (iii) Parties are directed to appear before the learned Judge on 20.12.2016 at 10.00 a.m.
- (iv) Rule is made absolute in above terms.

F.M. REIS, J.