

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO. 922 OF 2016**

1. M/s Unidiam Abrasives Ltd., a Public Limited Company, incorporated and registered under the Companies Act, 1956 and having its registered office at 306, Rayu Chambers, Dr. A.B. Road, Panaji, Goa.
2. Mr. Kiran M. Shetty, 6A Rup Niwas, 14th Cross Road, Bandra (W), Mumbai - 400 050.
3. Mr. Ashwin Ajila, 50 Raj Mahal Vilas, Ext.6A Cross Road, Bangalore 560 000.
4. Mrs. Mamta Ajila, 50, Raj Mahal Vilas, Ext.6A Cross Road, Bangalore 560 000.
5. Shri Vijaya Ajila, since deceased, through his legal representative, Smt. Geeta Vijaya Ajila, 65 years of age, Ardock Estate, Koppa District, Chikamangalore, Karnataka State.
(since deceased through L.R.)
5(a). Mrs. Geeta Ajila, R/o Ardock Estate, Kudregundi Taluka, Koppa District, Chikamagalur, Karnataka State. Petitioners

Versus

The EDC Limited, having its office in EDC House, 1st Floor, Dr. Atmaram Borkar Road, P.B. No. 275, Panaji-Goa. Through its authorised officer, Shri G.N. Amonkar, Deputy General Manager, Panaji, major of age, service, R/o Porvorim, Bardez, Goa. ... Respondent

Mr. Kishore Aroskar, Advocate for the Petitioners.

Mr. Devidas Pangam, Advocate for the Respondent.

CORAM:- C.V. BHADANG, J.

DATE:- 15th OCTOBER, 2016.

ORAL JUDGMENT:

Rule. Rule made returnable forthwith. The learned Counsel for the respondent, waives service. Heard finally by consent of the parties.

2. The petitioners are challenging the order dated 24.08.2016 (below Exhibit-126), passed by the learned Principal District Judge at Panaji in Civil Miscellaneous Application No. 101/2004. By the impugned order, the application for permission to cross examine the witness of the applicants-

petitioners, has been refused. The learned District Judge has found that the cross examination of the witness was closed on 20.06.2016 and inspite of opportunity being granted, the witness was not cross examined. The learned District Judge also noticed that the matter is of the year 2004 and is a part of Special Drive matters.

3. On hearing the learned Counsel for the parties, I find that the cross examination was closed recently i.e. on 20.06.2016. There was an application for adjournment filed on the ground that the Counsel was not in a position to cross examine, for want of necessary instructions. The said application was rejected and the evidence was closed. Having regard to the overall circumstances, I find that in the interest of justice, a fair opportunity has to be granted to the petitioners to cross examine the witness. This shall however be subject to costs.

4. Hence the following order is passed:

O R D E R

(a) The petition is allowed.

(b) The impugned order is hereby set aside, subject to the petitioners paying costs of Rs.10,000/-, to be deposited with the District Legal Services Authority, within a period of two weeks from today.

(c) The application (Exhibit-126) is allowed, subject to the deposit of costs as aforesaid.

(d) The petitioners shall not seek any further adjournment and shall co-operate for early disposal of the matter.

(e) Rule is made absolute, in the aforesaid terms.

C. V. BHADANG, J.