

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 1087 OF 2016

MR. MARTINHO FERNANDES (MARCUS)., ... Petitioner
Versus
SMT. ANTONETTA FERNANDES., ... Respondent

Ms. Smita S. Gawas, Advocate for the petitioner.

Coram:- F. M. REIS, J.

Date:- 25th November, 2016

P.C.

Heard Ms. Smita S. Gawas, learned counsel appearing for the petitioner.

2. The challenge in the above petition is to the disallowance by the learned Trial Judge in exhibiting a CD during the course of the cross examination of AW1. The learned counsel appearing for the petitioner points out that though leave has been granted to rely upon such CD, the petitioner is precluded from confronting the witness with the contents of such CD in the cross examination. It is further submitted that grave prejudice would be occasioned to the petitioner in case the petitioner is not permitted to confront the witness on the basis of the contents of such CD.

3. I have considered the submissions of the learned counsel and I have also gone through the records. It is undisputed that the CD has

not yet been taken on record. The petitioner first would have to exhibit the CD and only thereafter the learned Judge would be in a position to consider whether the contents of such CD are relevant to decide the matter in controversy. The Court even has powers if so required to recall the witness in case such situation arises after the CD is exhibited. In such circumstances, I find that there is no jurisdictional error committed by the learned Judge which would call for interference in the impugned order at this stage. The petitioner if so advised is at liberty to challenge the impugned order dated 21.10.2016 in case any adverse order is passed against the petitioner at the final disposal of the suit. Reserving such liberty to the petitioner, the petition stands rejected.

F. M. REIS, J.

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