

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.950 OF 2015

Shri Sushant U. Khandolkar,
Major of age, Bachelor,
Indian National and Resident of
Ambeshi, Pale,
Bicholim, Goa.

..... Petitioner

V e r s u s

Shri Vishwas Mahadev Naik,
Son of Shri Mahadev Naik,
Major of age, Married, Service and
Residing at Flat No.03, Parijat Bldg.,
Near Post Office,
Mardol, Ponda-Goa.

..... Respondent

CORAM: S. B. SHUKRE, J.

DATE: 25TH JANUARY, 2016.

Advocate Deepak Gaonkar for the Petitioner.

Advocate Ashwin D. Bhobe for Respondent.

ORAL JUDGMENT:

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

2. The issue involved in this petition is small, but it appears, that it materially affects the defence of the petitioner, who is the defendant in the suit filed against him by the respondent.

3. This petition has been opposed by the learned counsel for the respondent/plaintiff, on the ground that if the roznama has not be written properly, the proper course for the petitioner is to go before the Trial Court and point out the necessary facts and that sufficient opportunity has already been given to the petitioner to adduce his evidence. He also submits that the petitioner has been repeatedly seeking adjournments and thus delaying the trial of the suit.

4. So far as the first ground of objection is concerned, I do not find it necessary to consider the same at this stage. What has to be seen is that if any equal treatment in granting adjournments has been afforded to both sides or not. No doubt, the roznama does not appear to be properly prepared and it also reflects the causal manner in which the roznama has been written. It also suggests that possibly the learned Civil Judge did not think it fit to verify the statements that were made before her at the bar by the learned counsel for either of sides by going through the record of the suit and examining the orders passed earlier by the learned Judge. If such care had been taken in the matter when it came up before the learned Judge on 23/10/2015, the case would have not been kept for clarification and passing of order on the application vide Exhibit 58 on 30/10/2015. The fact is that the application vide Exhibit 58 had already been disposed of on 30/9/2015 and this seems to

have been realized by the learned Civil Judge only on 30/10/2015. This is clear from the notings in the roznama to the effect that "... it is seen that order on Exhibit D-58 is already passed on 30/9/2015". Be that as it may, overall reading of the roznama shows that some opportunities have been given to the respondent to adduce evidence. So, opportunities in more or less similar manner for adducing evidence of the petitioner have also to be given to the petitioner. Justice stands for all sides and does not discriminate between anybody. The impugned order, therefore, cannot be sustained in law and it deserves to be quashed and set aside.

5. In the circumstances, the writ petition is allowed. The impugned order directing closer of defence evidence is quashed and set aside. One opportunity to adduce evidence is granted to the petitioner/defendant. Petitioner shall appear before the Trial Court on 29/1/2016 at 2.30 p.m. and shall tender his evidence. He shall not seek any further adjournment in the matter, unless there are compelling reasons.

6. Rule is made absolute in these terms. No costs.

S. B. SHUKRE, J.

Ap/-