

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 8952 OF 2017

M/s. J. M. Constructions	Petitioner
V/s.	
Antoinette Gomes & Ors.	Respondents

Charles Desouza for the petitioner.
Ranjana Parikh for the respondents.

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CORAM : M.S. SONAK, J.

DATE : 06th September, 2017

P.C.:

- . Not on board. Upon mentioning, taken on production board.
2. Heard the learned counsel for the parties.
3. The operative portion of the impugned order below Exhibit – 318 in R.A.E. Suit No. 710/1152 of 2005 dated 06th February, 2017 reads thus :-

“ i) Defendants are directed to argue on the application vide Exh.318 first before proceed to further cross-examination of D.W.2.

ii) Both the parties are directed to take note and comply. ”
4. The order is purely a discretionary order whereby the learned Trial Judge, in reference to the order made by this Court on 12th August, 2016 has directed that the Application vide Exhibit – 318 be decided before the matter proceeds further cross-examination of

D.W.2. There is no jurisdictional error as such which warrants interference under Article 227 of the Constitution of India.

5. The learned counsel for the parties states that application at Exhibit – 318 is posted for hearing on 19th September, 2017. If that be so, the learned Trial Judge is requested to proceed with the arguments on the said application on 19th September, 2017 and thereafter, dispose of the said application in accordance with the law and on its own merits latest by 10th October, 2017.

6. In case, the application at Exhibit-318 is disposed of, the Trial Judge to proceed to the stage of further cross-examination of D.W.2., so that there is no further delay in the matter .

7. In case, the application at Exhibit-318 is allowed, then naturally, the plaintiff will have to be recalled for further cross-examination. Further, since this is a matter which is required to be disposed of in a time bound manner as per the directions of the Hon'ble Supreme Court, the learned Trial Judge should impress upon the parties to conclude examination / cross-examination with reasonable dispatch.

8. With the aforesaid directions, this petition is disposed of.

9. There shall be no order as to costs.

10. All concerned to act on the authenticated copy of this order.

(M.S. SONAK, J.)