

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 308 OF 2017

MR. LEONARDO D'SOUZA., ... Petitioner
Versus
MARCELINA D'SOUZA AND 9 ORS., ... Respondents

Mr. Melwin Assis Viegas, Advocate for the petitioner.

Coram:- F. M. REIS, J.

Date:- 29th March, 2017

P.C.:

Heard Mr. Viegas, learned Counsel appearing for the petitioner.

2. The challenge in the above petition is to an order rejecting the application filed by the petitioner to recall PW.1 for further cross examination. The learned Trial Judge, upon examining the material on record, has come to the conclusion that the application filed by the petitioner is an abuse of process of the Court. It is contended by the learned Counsel that grave injustice would occasion to the petitioner in case PW.1 is not further cross examined in view of the inadequate cross examination conducted by the earlier Advocate. The learned Counsel further apprehends that in view of the default in conducting an effective cross examination, the case of the petitioner would be affected as it is contended that the suit itself

is barred by limitation. The learned Counsel as such, points out that the impugned order be quashed and set aside.

3. I have considered the submissions of the learned Counsel and I have also gone through the records. The learned Trial Judge has, upon examining the materials on record, come to the conclusion that the application is an abuse of process of the Court, only to delay disposal of the suit. There is no jurisdiction error committed by the learned Judge, so as to call for interference of this Court, at this stage, in the present writ petition under Article 227 of the Constitution. But, however, in case any adverse order is passed against the petitioner, liberty to the petitioner to challenge such order whilst preferring an appeal against the judgment passed in the suit.

4. Subject to the above, the petition is rejected.

F. M. REIS, J.

ssm.