

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 315 OF 2017

SHRI. RAGHVIR BABUSOO HARMALKAR
(DEC) THR. LRS. AND ANR.,

... Petitioners

Versus

SHRI. GURUDAS MUKUND POROB
PADGAONKAR.,

... Respondent

Mr. P. Faldessai, and Ms. V. Shetye, Advocates for the
petitioners.

Coram:- F. M. REIS, J.

Date:- 29th March, 2017

P.C.:

Heard Mr. P. Faldessai, learned Counsel appearing for
the petitioners.

2. The challenge in the above petition is to the orders
passed by the learned Trial Court whereby the applications filed
by the petitioners for production of additional documents, as
well as to recall the witness for cross examination, have been
rejected.

3. Mr. P. Faldessai, learned Counsel appearing for the
petitioners has vehemently argued that the proposed documents
would be very much relevant for the purpose of establishing that
the disputed house was in existence at least prior to the year

1987. The learned Counsel further points out that there is a serious lapse in the cross examination conducted by the earlier Advocate which would gravely prejudice the case put-forward by the petitioners. The learned Counsel further points out that the petitioners have also produced a Certificate from the Village Panchayat to establish their claim that the house was in existence much prior to the alleged cause of action in the suit. The learned Counsel has thereafter taken me through the impugned orders to point out certain observations therein which would come in the way of the petitioners while deciding the suit, on merits.

4. I have considered the submissions of the learned Counsel and with his assistance, I have also gone through the records and the impugned orders rejecting the applications for production of additional documents and for recall of the witness. The suit was filed in the year 1999. The contention of the petitioners in the written statement is that they are mundkars of the dwelling house in the subject property. The records reveal that the Reference to the Mamlatdar has been decided against the petitioners, though Mr. Faldessai, learned Counsel appearing for the petitioners states that a challenge to such order is pending before this Court.

5. As far as the Civil Court is concerned, the reference has

been duly answered, which would be subject to orders that would be passed by this Court, if any. In such circumstances, I find that there is no jurisdictional error committed by the learned Judge while refusing the relief sought by the petitioners. The documents are of the year 2016, whereas the suit was filed in the year 1999. In such circumstances, reserving the right of the petitioners to challenge the impugned order in case any adverse order is passed against them at final stage of the suit, the petition stands rejected. Needless to say, the suit will have to be decided by the learned Judge, on its own merits, without being influenced by any observations in this order, in accordance with law.

F. M. REIS, J.

ssm.