

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 415 OF 2017

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

Ms. Smita S. Gawas, Advocate for the petitioner.
Mr. J. Ramaiya and Mr. I. Santimano, Advocates for the respondent.

Coram:- C. V. BHADANG, J.

Date:- 24th July, 2017

P.C.

By this petition, the petitioner is challenging the order dated 12/04/2017 below Exh.87, passed by the Trial Court, by which an application for production of documents, has been rejected.

2. It appears that there is a dispute about some 'brick kilns' between the parties. By an order dated 29/12/2015, the learned Trial Court had appointed Mr. Neelesh Laad, Engineer, as a Commissioner to value the brick kilns. Accordingly, the commissioner submitted his report on 16/01/2016, which is objected to by the petitioner/ defendant. It appears that the learned Trial Court is conducting enquiry of the said objections raised to the Commissioner's report, in which the Commissioner was examined and was also recalled in respect of the Video C.D. produced by the petitioner (RW1). By an order dated

06/05/2016, the petitioner was allowed to cross-examine the Commissioner with respect to the said report. Yet another application for recalling the Engineer is pending before the learned Trial Court. Be that as it may, the petitioner filed an application for production of an official gazette/ notification of the Schedule of Rates pertaining to 'mud bricks' for last five years. This was on account of the fact that the Commissioner, in his report as also in his evidence, had stated that he had obtained the Government Rates of mud bricks in the year 2013, which was Rs.4/- per brick. He then added escalation of 20 % and after rounding off, arrived at the rate of Rs.6/- per brick as in the year 2016. The petitioner wanted to controvert the Commissioner as to the Government Rates of the 'mud bricks'. In pursuance of the query under the Right to Information Act (RTI), the PWD, by its letter dated 06/03/2017, supplied a schedule of basic rates for various materials, including cement bricks as per GSR 2011(Bldgs) and GSR 2015 (Bldgs). PWD also made it clear that the term "mud" is not mentioned in the description of bricks.

The petitioner wanted to produce this schedule on record. The learned Trial Court has rejected the application, inter alia, on the ground that the Commissioner's report is about valuation of 'mud bricks', while the document supplied by the PWD on the basis of RTI query, which the petitioner wants to produce on record, is in respect of cement concrete blocks and not 'mud bricks'. Feeling aggrieved, the petitioner is before this Court.

3. I have heard the learned Counsel for the petitioner and the learned Counsel for the respondent and perused the impugned order.

4. It is submitted by the learned Counsel for the petitioner that the document is required to be produced in order to test the report of the Commissioner. It is submitted that a specific query was made under RTI to PWD to supply Government Scheduled Rates, relating to 'mud bricks' and the document supplied in reply to the said query, is relevant document.

5. The learned Counsel for the respondent submits that the learned Trial Court is justified in holding that the document is not relevant.

6. I have carefully considered the rival circumstances and the submissions made.

7. Indisputably, the report of the Commissioner is regarding the valuation of the 'mud bricks' as in the year 2016. The Commissioner, in his report, says that he had obtained the Government rates of bricks from the PWD for the year 2013 and after considering an escalation of 20 % and rounding off, has arrived at a rate of Rs.6/- per brick in the year 2016. This all

pertains to 'mud brick', while the letter along with the schedule, which the petitioner intends to produce, is regarding concrete blocks. Thus, the Trial Court is justified in holding that the document is not relevant. The impugned order does not suffer from any infirmity. The petition is without any merit and is, accordingly, dismissed.

C. V. BHADANG, J.

SMA