

**IN THE HIGH COURT OF BOMBAY AT GOA****WRIT PETITION NO.506 of 2017**

1. Shri Kishor Shantaram Shetmandrekar,  
son of Shri Shantaram Shetmandrekar,  
aged about 44 years,  
r/o H. No.134, Deulwada,  
Mandrem, Pernem- Goa
2. Mrs. Sailee Kishor Shetmandrekar,  
wife of Shri Kishor Shetmandrekar,  
major of age,  
r/o H.No.134, Deulwada,  
Mandrem, Pernem-Goa .. Petitioners

Vs.

1. Shri Tanaji Dattaram Chari,  
@ Tanaji Dattaram Mandrekar,  
s/o late Shri Dattaram Chari,  
major of age, retired,  
r/o H. No.750, Portwada,  
Siolim, Bardez-Goa.
2. Shri Tulshidas Sitaram Chari,  
s/o late Shri Sitaram Chari,  
major of age, Carpenter,  
r/o H. No.58, Dandoswada,  
Mandrem, Pernem- Goa.
3. Village Panchayat Mandrem,  
Through its Secretary,  
Mandrem-Goa. .. Respondents.

Mr. A. D. Bhobe and Ms. S. Bhobe, Advocates for the petitioners.

Mr. D. Gaonkar, Advocate for the respondents.

**CORAM :- C. V. BHADANG, J.**

**DATE:- 7<sup>th</sup> June, 2017**

**ORAL JUDGMENT :**

Rule, made returnable forthwith. The learned Counsel

for respondent nos.1 and 2, who are the contesting parties, waives service. Heard finally by consent of the parties.

2. The petitioners are challenging the order dated 02/06/2017 passed by the learned Trial Court, by which an application filed by the petitioners for recall of the plaintiffs' witnesses PW3 and PW4, has been rejected on the ground that the suit is expedited by this Court.

3. The learned Counsel for the petitioners points out that the Advocate for the petitioners was unwell and a Medical Certificate was also produced. However, the prayer for recall was rejected only on the ground that the matter is expedited. The learned Counsel for the petitioners also points out that after this order is passed, respondent nos.1 and 2 have sought recall of PW1 and the matter is fixed on 09/06/2017.

4. The learned Counsel for respondent nos.1 and 2 supports the impugned order. In the alternative, it is submitted that this Court may pass appropriate order in the circumstances of the case. It is submitted that if this Court is inclined to allow the petition, then the time for disposal of the suit be extended. It is pointed out that the petitioners have filed list of six witnesses.

5. Considering the overall circumstances and taking note of the Medical Certificate of the Advocate for the petitioners and further having regard to the fact that the application was rejected only on the ground that the suit is expedited by this Court, I find that indulgence can be granted. Hence, the following order is passed :

- (a) The petition is allowed.
- (b) The impugned order is hereby set aside.
- (c) Application for recall of PW3 and PW4 for cross-examination on behalf of the petitioners is allowed.
- (d) Time for disposal of the suit is extended by a period of six months.
- (e) Rule is made absolute in the aforesaid terms, with no order as to costs.

**C. V. BHADANG, J.**

SMA