

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 572 OF 2017

MR. ELVINO DIAS, REP. BY HIS POA
MRS. ANTONETTA DIAS.,

... Petitioner

Versus

MR. AMIOTO RODRIGUES AND ANR.,

... Respondents

Adv. Abhijeet Kamat for the Petitioner.

Adv. Ashwin D. Bhobe for Respondent no.2

Coram:- C. V. BHADANG, J.

Date:- 4th October 2017

P.C.:

Heard for some time. The petition can be disposed of on a short count. The petitioner, who is the plaintiff is challenging the order dated 15/4/2017 passed by the learned Senior Civil Judge, Vasco, by which an application for intervention filed by the respondent no.2 has been allowed directing the impleadment of the respondent no.2 as a party defendant.

2. The learned counsel for the petitioner contended that the suit is simplicitor for injunction and as such, the impleadment of the second respondent could not have been directed. Shri Bhobe, the learned counsel for the second respondent submits that there are avernments and allegations made against the second respondent in the plaint and as such, the rights of the second respondent are

likely to be affected by the outcome of the suit.

3. Upon this, the learned counsel for the petitioner, on instructions, submits that the petitioner shall file appropriate application before the learned trial court seeking deletion of the averments/allegations against the second respondent including as contained in para 30 of the plaint. On such a deletion being granted, the prayer for impleadment will not survive. In such circumstances, the petition is disposed off by consent of parties in the following terms:

ORDER:

(i) On an application being filed by the petitioner for deletion of the allegations/averments made against the second respondent including the allegations/avernments as contained in para 30 of the plaint, the trial court shall pass necessary orders for deletion of the same.

(ii) The impugned order is accordingly set aside.

(iii) Needless to mention that the written statement filed by the second respondent will not form part of the record once the impugned order is set aside.

(iv) This Court has not examined the rival contentions of the parties on merits.

(v) The petition is disposed off in the aforesaid terms with no order as to costs.

C. V. BHADANG, J.

ap/-