

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 601 OF 2017

CHERUPARAMBIL MATHEW MATHEW ALIAS
C.M. MATHEW., ... Petitioner

Versus

ERIC EUSEBIO FURTADO AND 11 ORS., ... Respondents

Mr. R. G. Ramani and Mr. P. Kakodkar, Advocates for the
petitioner.

Mr. C. A. Coutinho, Advocate for the respondent nos.11 and 12.

Coram:- C. V. BHADANG, J.

Date:- 29th November 2017

P.C.

The challenge in this petition is to the order dated 31/03/2017 and 09/06/2017, passed by the learned Trial Court. By the order dated 31/03/2017, the application (Exh.172) filed by the petitioner/ plaintiff for production of additional document, namely a post dated cheque for Rs.1 Lakh bearing No.220810, has been rejected. By the subsequent order dated 09/06/2017, the application (Exh.184) for amendment of the plaint has met with dismissal.

2. The only contention raised on behalf of the petitioner is that the amendment and production of the document, namely the cheque is necessary to show that the plaintiff and the respondent

nos.11 and 12 were acquainted to each other. The cheque was passed in the name of the respondent no.12 and was handed over to respondent no.11. It is submitted that after the application for production of cheque was rejected, the amendment became necessary.

3. On hearing the learned Counsel for the parties, I do not find that any case for interference is made out. The suit is of the year 2006 and indisputably, the trial has commenced therein. The petitioner had amended the plaint on more than one occasion and the application for amendment would show that the Memorandum of Understanding (MOU) dated 29/03/2005 between the parties was already brought on record, which contains a recital about passing of the cheque by way of security.

The said MOU has been produced on record and has been exhibited. Thus, if at all the petitioner wants to show that the petitioner and respondent nos.11 and 12 were acquainted, he can do so on the basis of the MOU, which has already been produced and exhibited on record. It is difficult to understand how the proposed amendment and production of the cheque can further assist the petitioner to show the acquaintance between the petitioner and respondent nos.11 and 12. In any event, the petitioner has not shown that in spite of due diligence, the petitioner was unable to carry out the said amendment before commencement of trial. The requirement of proviso to Order VI,

Rule 17 of C.P.C. is not satisfied in this case. The petition is without any merit and is dismissed, with no order as to costs.

C. V. BHADANG, J.

SMA