

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO. 880 OF 2017****PRAMOD HEDE AND ANR.,****... Petitioners****Versus****ANTONIO MARIANO ANTÃO (DEC) THR.
HIS LRS. AND 2 ORS.,****... Respondents**

Mr. Ashwin D. Bhobe, Advocate for the Petitioners.

Coram:- C. V. BHADANG, J.**Date:- 12th October 2017.****Oral Order:**

Heard Shri Bhobe, the learned counsel for the petitioners.

2. By a judgment and order dated 4/8/2008, the Administrative Tribunal while partly allowing the appeal has remanded the matter back to the Rent Controller for deciding it afresh for taking the "subject documents on record". After the remand the documents have been placed on record. The petitioners sought recall of AW.1 in the light of the fact that the documents were permitted to be produced on record. The learned Rent Controller by an order dated 21/4/2014 found that AW.1 is not the author of the said documents nor they are in the form of previous writing of AW.1 (incorrectly mentioned as AW2) and therefore he cannot be confronted with the same.

The learned Rent Controller, however, found that the said witness may be generally questioned in respect of the said documents. In such circumstances the application for recall was partly allowed in the following terms:

“ Application is partly allowed.

The documents which are sought to be produced as per the application dated 21/12/2001 shall be first be tendered into evidence by the respondents and subsequently thereafter AW1 shall be recalled for the purpose of being generally questioned about the said documents.”

3. The petitioner challenged the same in revision before the learned District Judge. The revision application has been dismissed on 31/7/2017. Hence this petition.

4. It is submitted by Shri Bhobe the learned counsel for the petitioner that the documents cannot be formally exhibited during the course of the evidence of the petitioners and therefore it would be appropriate that AW.1 is recalled, as prayed for by the petitioners. It is submitted that the Courts below were in error in finding that the documents have first to be tendered in evidence by the petitioners and thereafter AW.1 shall be recalled for the purpose of generally being questioned on the said documents.

5. On hearing the learned counsel for the petitioners and on perusal of the record, I do not find that any case for interference is made out. As noticed earlier, the Administrative Tribunal while remanding the matter has allowed the petitioner to produce the documents which are said to be produced before the Rent Controller. The request by the petitioner for recall of AW1 is also not rejected, in the sense that the Rent Controller has directed that the documents are first to be tendered which would mean that the documents are formally tendered after the petitioners examine any witness and thereafter AW1 shall be recalled. The impugned order cannot be said to result into manifest injustice to the petitioner as their request for to recall is not rejected as such. In such circumstances, I decline to entertain the petition which is accordingly dismissed. Needless to mention that after the documents are formally tendered in evidence by the petitioners, the Rent Controller shall recall AW.1 as has already been ordered.

C. V. BHADANG, J.

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