

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO. 832 OF 2017**

Mr. Madhavrao Shivajirao Dessai,
64 years of age,
Son of Shivajirao Dessai,
R/o House No.99,
Surla, Sancorda-Goa.

..... Petitioner

V e r s u s

M/s. V & G Transport,
A registered Partnership Firm,
Having its office at Govinda Building,
Tisk, Usgao Goa
Through its Partner,
Shri Govind Sawant,
S/O Vithal Sawant,
major of age,
R/o Surla, Sancorda, Goa.
(Above are the registered addresses of the parties)

..... Respondent.

Shri A. D. Bhobe, Advocate for the Petitioner.

Shri J. J. Mulgaonkar, Advocate for the Respondent.

CORAM: C. V. BHADANG, J.

DATE: 27TH SEPTEMBER, 2017.

ORAL JUDGMENT:

Rule made returnable forthwith. The learned counsel for the respondent waives service. Heard finally by consent of parties.

2. The petitioner/defendant, is challenging the order dated 21/8/2017

passed by the learned Civil Judge, Junior Division at Sanguem in R.C.S No.36/2010, by which, the learned trial court has closed the evidence of the petitioner.

3. A perusal of the record and the impugned order shows that earlier the trial court had granted adjournment for leading evidence subject to costs of Rs.5000/- . The learned counsel for the petitioner states that said costs are paid. Subsequently the petitioner again sought adjournment on the ground that the concerned witnesses are staying abroad. The learned trial court after taking a note of the roznama found that the petitioner is trying to delay the proceedings on one pretext or the other.

4. On hearing the learned counsel for the parties and on perusal of the record it does appear that the petitioner could have acted with more diligence. The suit is of the year 2010 and there is a general direction to decide the suits which are more than 5 years old expeditiously. Although the trial court had granted sufficient opportunity to the petitioner, the petitioner on account of the fact that the concerned witnesses are staying abroad could not examine them. The learned counsel for the petitioner, on instructions, states that the petitioner has four more witnesses to examine and shall keep these witnesses present on the date/s on which the the trial court fixes the matter for

evidence. The parties state that the suit is fixed on 9/10/2017. The petitioner shall keep his next witness present on 9/10/2017 or any other date as may be fixed by the Court. The petitioner shall furnish an advance copy of the Affidavit -in -Evidence to the learned counsel for the respondent.

5. It is submitted by the learned counsel for the respondent that the petitioner had earlier filed an application for transfer of the suit, making certain allegations of bias against the Presiding Officer. The learned counsel for the petitioner, on instructions, states that the petitioner is withdrawing the allegations against the Presiding Officer.

6. In such circumstances, the petition is allowed. The impugned order is hereby set aside subject to payment costs of of Rs.20,000/- (in addition to the costs of Rs.5000/- if not already paid) to be paid to the respondent on or before 9/10/2017. The payment of costs is a condition precedent. The statement is accepted. It is made clear that the petitioner shall not seek any further adjournment for leading evidence and keep the witnesses present, as and when the trial court fixes the suit for evidence.

C. V. BHADANG, J.

Ap/