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IN THE HIGH COURT OF BOMBAY AT GOA
SECOND APPEAL NO. 63 OF 2017

Benny Gomes

...Appellant

Versus

Baptist Lobo Alias Reginald Baptist Lobo

...Respondent

Ms Asha A Desai, for the Appellant.

Mr AD Bhobe, for the Respondent.

CORAM: G.S. Patel, J.

DATED: 21st September 2017

PC:-

1. The second appeal can be disposed of with an order of remand on the limited ground that the impugned order of the Adhoc District Judge I, FTC, Mapusa seems to have been passed on the basis only of written submissions filed but without hearing advocates on either side. Paragraph 10 of the impugned order at page 12 notes the filing of written submissions. It does not, however, note that parties had agreed that the Court could proceed on the basis only of those written submissions and had agreed to dispense with oral arguments. Ms Desai says she herself argued the matter (apart from filing written submissions) before the learned Judge's predecessor, but on a change of assignment, the matter was not argued before the newly assigned learned Judge, who, instead, proceeded to pass the impugned order only on the basis of the written submissions. Ms Desai says that she was present throughout and that she herself argued the matter before the previous Judge.

2. I do not intend to address the merits of the respective cases. I believe that apart from written submissions, which might have at best serve as a summary or an *aide memoire* in our system of adversarial litigation, oral advocacy and arguments play a pivotal role. Very often, a skilful litigator is able to persuade a Bench in a manner that his or her written submissions may not. We have no known method — yet — of completely dispensing with oral arguments except by consent of parties.

3. For this limited reasons, the impugned order is set aside. Regular Civil Appeal No. 130 of 2012 is restored to file. Parties will appear before the District Judge I at Mapusa on 5th October 2017 and will obtain the necessary directions for final hearing.

4. Parties may apply to the Court for leave to file supplementary written submissions and which the Court will consider without being bound to grant that leave.

5. The District Court is requested to dispose of the appeal after hearing both sides at its earliest convenience uninfluenced by the previous order. It is requested to do so, if possible, on or before 31st January 2018.

(G.S. PATEL, J)