

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO. 923 OF 2017**

Shri. Ajit Raut Desai
s/o. late Sadashiv Raut Desai
aged 63 years, married, landlord
r/o. H.No.369(4), Copremoddi
Assolda, Quepem, Goa.

.... Petitioner.

Versus

1. Mrs. Maria Luis
w/o late Camilo Luis
aged about 47 years, married
housewife, r/o. H.No. 168(1)
Cunneamoddi, Assolda, Quepem, Goa.

2. Mrs. Ruby Luis
w/o Conceicao Luis
aged about 37 years, married
r/o. H. No. 170
Cunneamoddi, Assolda, Quepem, Goa.

.... Respondents

Mr. Cleofato A. Coutinho, Advocate for the petitioner.
Ms. M. Fernandes, Advocate for the Respondents.

Coram :- C. V. BHADANG, J
Date : 08th November, 2017.

ORAL JUDGMENT:

Rule, made returnable forthwith. The learned Counsel for the Respondents waives service. Heard finally by consent of parties.

2. By this Petition, the Petitioner is challenging the Order dated 07.10.2017 passed by the learned trial court, whereby, the evidence of the Petitioner/Plaintiff has been closed.

3. According to the Petitioner, the Petitioner had suffered an accident and was advised not to bear weight on his right leg for a period of six months. In such circumstances, the Petitioner had sought one month's time in order to enable him to recover fully. This was on 07.10.2017. The learned trial court on the basis of the Medical Certificate filed by the Petitioner found that the Petitioner was in good health except for his right leg which was operated. Learned Trial Court further found that there were 3 previous adjournments sought and the Suit being of the year 2012, the Trial Court found that no case for grant of adjournment was made out.

4. On hearing the learned Counsel for the parties, I find that a fair opportunity has to be granted to the Petitioner, particularly in view of the fact that the Petitioner had suffered injury due to the accident and was advised not to bear weight on his right leg for a period of six months. The learned Counsel for the Petitioner, on instructions, states that the Petitioner shall remain present before the Court on the next date for leading his evidence. The statement is accepted. In my considered view, the Petitioner can be permitted to lead evidence subject to payment of costs. Hence, the following order:

ORDER

- i) The Petition is allowed.
- ii) The impugned order is set aside.
- iii) The learned Trial Court shall permit the Petitioner to lead

evidence, subject to payment of costs of Rs.5000/- to the Respondent on or before the next date of hearing, before the learned Trial Court.

iv) Rule is made absolute in the aforesaid terms.

C. V. BHADANG, J

msr.