

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO. 968 OF 2017**

Mr. Sanjeev Tarcar, son of late Padmanabh Tarcar, aged 67 years, businessman and resident of Tarcar Mansion, behind St. Mary Immaculate High School, Cortim, Panaji, Goa.

.... Petitioner

Versus

1. Arminio Rodrigues, aged 70 years, son of Joao Francisco Rodrigues, occupation landlord, r/o old market, opposite Civil and Criminal Court, Margao, Goa.

2. Shri Oswald Rodrigues (deceased), r/o old market, opp. Civil Court, Margao, Goa.

.... Respondents

Shri Sanman R. Keny, Advocate for the Petitioner.

Shri Jagannath J. Mulgaonkar, Advocate for the Respondents.

CORAM:- C.V. BHADANG, J.

DATE:- 27th 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 under Article 227 of the Constitution of India, the petitioner is challenging the order dated

19.09.2017, by which, an application (Exhibit-D/24), filed by the petitioner, seeking time to cross examine PW-1, has been dismissed.

3. A perusal of the impugned order shows that on two previous dates of hearing i.e. on 29.08.2017 and 11.09.2017, time was sought on behalf of the petitioner, which was granted with a stipulation that no further time shall be granted. Yet again, an application (Exhibit-D/24) was moved on behalf of the petitioner, seeking time on the ground that the Advocate has no instructions to cross examine the respondent (applicant before the Trial Court).

4. On hearing the learned Counsel for the parties, I find that the stand taken by the petitioner cannot be countenanced. On one hand, the Advocate was appearing and representing the party and on the other hand, time was sought on the ground that no Vakalatnama was received. The impugned order shows that twice indulgence was granted. Thus, normally, this Court would not have interfered with the impugned order. However, considering the fact that the petitioner gets a fair trial and further having regard to the fact that it is advisable that the matter is decided on merits, opportunity is granted to the

petitioner, subject to costs of Rs.20,000/-.

5. In the result, the following order is passed:-

ORDER

- (a) The petition is allowed.
- (b) The impugned order is hereby set aside, subject to payment of costs of Rs.20,000/- to the respondent no. 1, on or before the next date i.e. 12.12.2017.
- (c) The petitioner shall pay costs and ensure that the witness is cross examined on the next date, without fail.
- (d) The Trial Court shall decide the suit as expeditiously as possible and preferably within a period of one year from the receipt of this order.
- (e) Rule is made absolute in the aforesaid terms, with no order as to costs.

C. V. BHADANG, J.