

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 85 OF 2016

DR.RAVI PRAKASH, THROUGH ITS POA
MR.ANTHONY DIEGO LOPES.

... Petitioner

Versus

SHRI.ROLFE FERNANDES.

... Respondent

Mr. Galileo Francisco Teles, Advocate for the petitioner.

Coram:- F. M. REIS, J.

Date:- 4th April, 2017

P.C.

Heard Mr. G. Teles, learned counsel appearing for the petitioner.

2. The challenge in the above petition is to the disposal of the application under Order 26 Rule 9 of the Civil Procedure Code. The application was filed before the learned Trial Judge at the stage of temporary injunction. As such application was moved at the stage of the disposal of the application for temporary injunction, the question of appointing a Commissioner under Order 26 Rule 9 of the Civil Procedure Code would not at all be justified in the facts of the case. There is no jurisdictional error committed by the learned Judge while passing the impugned order dismissing the application under Order 26 Rule 9 of the Civil Procedure Code. The petitioner if so entitled can move

such an application in the suit only after substantial evidence is recorded which the learned Judge shall examine on its own merits in accordance with law.

3. The petition stands disposed of accordingly.

F. M. REIS, J.

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