

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 377 OF 2018

PREM ROSHANLAL KOHLI., ... Petitioner

Versus

GAMA BUILDERS PVT. LTD., THR. ITS
DIRECTOR., ... Respondent

Adv. Pankaj Purway for the Petitioner.
Mr. J. Coelho Pereira, Senior Advocate with Adv. Vinod Vishnu
Korgaonkar for Respondent

Coram:- C. V. BHADANG, J.

Date:- 21st November 2018

P.C.:

This petition can be disposed off on a short count.

2. The petitioner, who is the original defendant is challenging the order dated 17/1/2018 passed by the trial court, by which the petitioner has been marked ex-parte and the counter claim filed by the petitioner is dismissed in default on the ground that the petitioner was absent on two consecutive dates.

3. On hearing the learned counsel for the parties it appears that although the trial court has not indicated under which provision the said order is passed, the order would be referable to the one under Order 9 rule 8 of C.P.C. The learned counsel for the

petitioner, on instructions, states that the petitioner would file appropriate application for setting aside the order of dismissal of the counter claim in default and of marking the petitioner as ex parte in the suit before the trial court within two weeks from today. If such an application is filed, the trial court shall decide the same on its own merits and in accordance with law. The rival contentions of the parties are left open. The parties to appear before the trial court on 5/12/2018. In the circumstances there shall be no order as to costs.

C. V. BHADANG, J.

ap/-