

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO. 610 OF 2018**

Mr. N.V. Kharote Constructions Pvt. Ltd.,
Engineers and Contractors.

Represented through its Managing
Director, Shri Ratnakar N. Kharote, major
of age, Indian National, S. No. 3/2, Plot No.
1, Near Civil Defence Training Centre,
Parvati, Pune 411 002.

.... Petitioner

Versus

The State of Goa, Through its Executive
Engineer, Division XII (PHE-SWSP), Public
Works Department, Sanguem, with Head
Office situated at Altinho, Panaji, Goa.

.... Respondent

Shri Joaquim Godinho, Advocate for the Petitioner.

Ms. Priyanka Kamat, Additional Government Advocate for the
Respondent.

CORAM : C.V. BHADANG, J.

DATE : 21st JUNE 2018

ORAL JUDGMENT:

Rule made returnable forthwith. The learned
Additional Government Advocate, waives service on behalf of the
respondent. Heard finally by consent of parties.

2. The petitioner/original defendant is challenging the
order dated 16.04.2018, passed by the learned Trial Court, by
which, the joint application filed by the parties for adjournment,

has been rejected and the evidence of the petitioner has been closed.

3. It appears that on the earlier date i.e. on 05.03.2018 also, the petitioner had sought adjournment, on the ground that DW-1, on account of his illness, could not attend the Court. On 16.04.2018, a joint application was filed by the parties, for adjournment, stating that DW-1 could not attend the Court. The learned Trial Court dismissed the application *inter alia* on the ground that the suit is of the year 2010 and is under a direction of speedy disposal and therefore, no long date can be given in the matter. Thus, in the view of the learned Trial Court, there was no sufficient cause for granting time.

4. I have heard the learned Counsel for the parties and perused record. Once the parties jointly requested for adjournment, normally, it could have been granted. I would hasten to add that the Court is not always obliged to grant time on a joint request. However, in the present case, the respondent-State which is the plaintiff and the petitioner had sought time, on the ground that they require adjournment in the matter. Shri Godinho, the learned Counsel for the petitioner pointed out that on earlier, three to four occasions, the witness was present.

5. Considering the overall circumstances, I find that an opportunity needs to be granted to the petitioner, subject to costs. Shri Godinho, the learned Counsel for the petitioner states that DW-1 shall remain present before the Trial Court on the next date or any other date, to which, the learned Trial Court shall adjourn the suit. The learned Additional Government Advocate for the respondent states that the witness, if present, shall be cross examined. The statements are accepted.

6. In the result, the following order is passed:

ORDER

- (a) The petition is allowed.
- (b) The impugned order is set aside, subject to the petitioner paying costs of Rs.5,000/- to the District Legal Services Authority, North Goa, Panaji.
- (c) The petitioner shall keep DW-1 present positively on the next date or any other date, to which, the suit is adjourned.
- (d) Parties to appear before the learned Ad-hoc District Judge-I, FTC, Panaji on 02.07.2018 at 10:00 a.m.
- (e) Rule is made absolute in the aforesaid terms.

C.V. BHADANG, J.

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