

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 836 OF 2018

ANJALI SANYOG NARVEKAR., ... Petitioner

Versus

SANYOG GANESH NARVEKAR AND 6 ORS., ... Respondents

Shri Nigel Da Costa Frias, Advocate for the petitioner.

Shri Sudin Usgaonkar, Senior Advocate with Ms. T. Kamat
Ghanekar, Advocate for the respondent nos.1 to 3 and 5.

Ms. Priyanka Kamat, Additional Government Advocate for the
respondent nos.6 and 7.

Coram:- C. V. BHADANG, J.

Date:- 14th December 2018

P.C.

Heard Shri D'Costa Frias, the learned Counsel for the petitioner, Shri Usgaonkar, the learned Senior Counsel for the respondent nos.1 to 3 and 5 and Ms. Priyanka Kamat, the learned Additional Government Advocate for the respondent nos.6 and 7. The respondent no.4 is deleted.

2. By this petition, the petitioner/ original plaintiff is challenging the order dated 29/06/2018, by which, the application Exh.108 filed by the petitioner for summoning a witness from the Syndicate Bank, Mapusa Branch, has been rejected.

3. Shri D'Costa Frias, the learned Counsel for the petitioner points out that the petitioner had filed an application for amendment of the plaint, which has been allowed on 13/12/2018. The learned Counsel has taken me through the proposed amendment by introduction of paragraphs nos.34B and 34C and prayer clause (AA). It is submitted that now there is a specific pleading incorporated in the plaint about the defendant no.2 having mortgaged the property mentioned at Serial No.IV with the Syndicate Bank, Mapusa Branch, which according to the petitioner, is illegal as it has been mortgaged without the knowledge or consent of the petitioner, who is a co-owner of the property. It is submitted that in view of the subsequent development of incorporation of specific pleading, the application for summoning the concerned witness from the Bank has to be allowed.

4. On hearing the learned Counsel for the parties, I find that in view of the fact that the amendment is now stated to have been allowed, incorporating the pleadings, more particularly in para 34C of the plaint, it would be open to the petitioner to file an application afresh at appropriate stage for calling the witness from the Syndicate Bank, Mapusa Branch. If such an application is filed, the Trial Court shall decide the same in accordance with law, without being influenced by the observations in the

impugned order.

5. The Writ Petition is disposed of in the aforesaid terms, with no order as to costs.

C. V. BHADANG, J.

SMA