

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO.966 OF 2018.**

Veriana Victoria Alcacoas
E Rodrigues and 4 Ors .. Petitioners

Vs

Victor Luis Monteiro and
8 Ors. .. Respondents

Shri V. Rodrigues, Advocate for the petitioners.

Shri T. Pereira, Advocate for the respondent nos.4 to 6.

CORAM :- C. V. BHADANG, J.

DATE: 10th December, 2018

ORAL ORDER :

Heard Shri Rodrigues, the learned Counsel for the petitioner and Shri Pereira, the learned Counsel appearing for the contesting respondent nos.4 to 6, who alone had objected to the application under Order XLI, Rule 27 of the Code of Civil Procedure (CPC), filed by the petitioners, which has been dismissed by the impugned order dated 20/08/2018.

2. Considering the fact that the respondent nos.4 to 6 are the only contesting respondents, the petition is being disposed of finally.

3. Although the learned Appellate Court has noted the decision of the Supreme Court in the case of ***Union of India Vs. Ibrahim Uddin and another***; (2012)8 SCC 148, what is lost sight is that the application under Order XLI, Rule 27 of CPC of the present nature has to be decided at the final hearing of the appeal as it is only at that stage that the Appellate Court would be in a position to consider and come to a conclusion as to whether the documents are necessary for deciding the appeal. In that view of the matter, the impugned order is hereby set aside. The application under Order XLI, Rule 27 of CPC filed by the petitioners is restored back to the file of the learned District Judge in Regular Civil Appeal No.362/2010. Needless to mention that the learned District Judge shall consider the said application on its own merits and in accordance with law, at the final hearing of the appeal.

4. In the circumstances, there shall be no order as to costs.

C. V. BHADANG, J.

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