

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 949 OF 2017

ROSY SEBASTIANA MENDES @ SEBASTIAO
ROSY MENDES., ... Petitioner

Versus

ANUNCIACAO CARLOT DIAS AND 10
ORS., ... Respondents

Shri J. P. Supekar, Advocate for the petitioner.

Shri A. D. Bhobe and Ms. S. Bhobe, Advocates for the
respondent nos.1 to 9.

Coram:- C. V. BHADANG, J.

Date:- 8th March 2018

P.C.

On hearing the learned Counsel for the petitioner, I find that
the petition could be disposed of on a short count.

2. The petitioner, who is the defendant no.1 before the Trial Court, is challenging the order dated 20/09/2017, passed by the learned Trial Court below application Exh.D-120. By the impugned order, the learned Trial Court has rejected the said application seeking permission to lead secondary evidence in respect of the documents at serial nos.16, 17, 19, 21, 23 and 27 of the list of documents. In so far as the documents at serial nos.19, 21 and 23 are concerned, they are copies of School

Leaving Certificates. It was contended that the original certificates have been submitted to the Education Institutions for further studies. The documents at serial nos.16, 17 and 27 are the copies of the passport of defendant no.2, who is presently working abroad and was unable to get leave. In such circumstances, the original passport could not be produced.

3. The learned Counsel for the petitioner submits that he will obtain duplicate School Leaving Certificates, which can then be produced before the Trial Court. Thus, the question of leading secondary evidence in respect of the documents at Serial Nos.19, 21 and 23 does not survive. In so far as the documents at serial nos.16, 17 and 27 are concerned, he submits that the documents can be marked only for identification, subject to proof/production of the original by the concerned witness.

4. Shri Bhobe, the learned Counsel for the respondent nos.1 to 9, in all fairness, has no objection for such a course being adopted.

5. In such circumstances, the petition is disposed of, with liberty to the petitioner to produce duplicate School Leaving Certificates, which shall be proved in accordance with law. In so far as the documents at serial nos.16, 17 and 27 are concerned, they may be tentatively marked for identification for the present

purpose, subject to proof in accordance with law. It is made clear that if the petitioner fails to produce the originals of the documents at serial nos.16, 17 and 27 before the conclusion of his evidence, the same shall not be looked into by the Trial Court. This shall be subject to just exception and objections as may be raised by the respondents/ plaintiffs.

C. V. BHADANG, J.

SMA