

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO.1110 of 2017**

1. Shri Tanaji Dattaram Chari @
Tanaji Dattaram Mandrekar,
S/o late Shri Dattaram Chari,
Aged about 65 years, married,
retired, Indian National
and R/o H.No.750, Portwada,
Siolim, Bardez-Goa.
2. Shri Tulshidas Sitaram Chari,
S/o late Shri Sitaram Chari,
Aged about 60 years, married,
Carpenter by profession,
Indian National and R/o H.No.58,
Dandoswada, Mandrem,
Pernem-Goa. .. Petitioners

Vs.

1. Shri Kishor Shantaram Shetmandrekar,
Son of Shri Shantaram Keshav
Shetmandrekar, Aged about 41 years,
married, Indian National, R/o H.No.134,
Deulwada, Mandrem, Pernem-Goa.
2. Mrs. Sailee Kishor Shetmandrekar,
Wife of Shri Kishor Shetmandrekar,
Major in age, married, Indian National,
R/o H.No.134, Deulwada, Mandrem,
Pernem-Goa.
3. Village Panchayat Mandrem,
Through its Secretary,
Mandrem-Goa .. Respondents.

Shri Deepak Gaonkar, Advocate for the petitioners.

Shri Ashwin D. Bhobe, Advocate for the respondent nos.1 and 2.

CORAM :- C. V. BHADANG, J.

DATE:- 1st March, 2018

ORAL JUDGMENT :

Rule, made returnable forthwith. The learned Counsel for the respondent nos.1 and 2 waives service. Heard finally by consent of parties.

2. The challenge in this petition is to the orders dated 29/11/2017 and 08/12/2017, passed by the learned Trial Court. By Order dated 29/11/2017, the application filed by the petitioners for time to cross-examine DW2, was rejected by the Trial Court and by order dated 08/12/2017, the learned Trial Court has closed the cross-examination of expert witness DW2 on account of the failure of the learned Counsel for the petitioners/ plaintiffs to cross-examine the said witness. One of the reasons given by the learned Trial Court is that the suit is directed to be disposed of in a time bound manner.

3. Considering the fact that the cross-examination of DW2 could not be conducted on account of the difficulty of the learned Counsel appearing for the petitioners and further having gone through the impugned order, I find that in the interest of fair trial, one opportunity needs to be granted to the petitioners. In such circumstances, the petition is allowed. The impugned orders dated 29/11/2017 and 08/12/2017 are hereby set aside. The petitioners shall be permitted to cross-examine DW2 on the next

date i.e. 17/03/2018 or any other date, to which the suit may be adjourned. The learned Counsel for the petitioners undertakes that on the next date, the witness shall be cross-examined without fail.

4. The parties point out that the time for disposal of the suit has expired on 10/01/2018. Having regard to the fact that the suit is at an advanced stage of trial, the time for disposal of the suit is extended till 30/04/2018.

5. Rule is made absolute in the aforesaid terms, with no order as to costs.

C. V. BHADANG, J.

SMA