

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 89 OF 2018

ANANDRAO VAMAN VERLEKAR CHATIM., ... Petitioner

Versus

MARIA ROSARIA FERNANDES E D'COSTA
AND 10 ORS., ... Respondents

Adv. M. Furtado for the Petitioner.

Coram:- C. V. BHADANG, J.

Date:- 11th June 2018

Oral Order:

On 17/1/2018 a notice for final disposal was issued in this case. On 4/6/2018 this Court had dispensed with the service of notice on respondent nos.1,2,3 to 6 inasmuch as respondent nos.4 and 5 were the only contesting parties. This is on account of the fact that the petitioners/plaintiffs are seeking to file a written statement to the counter claim filed by the respondents nos.4 and 5, who are the defendants nos.4 and 5. None of the other defendants have filed any counter claim.

2. The respondent nos. 4 and 5 are served, however, they have chosen not to appear. In the interest of justice one opportunity was granted to them to put in appearance on the last date.

However, today also none appears on their behalf.

3. By the impugned order, the learned trial court has dismissed the application seeking permission to place the written statement to the counter claim of the respondent nos. 4 and 5 on record. A perusal of the order shows that the counter claim was filed on 27/7/2016 and the next date was 30/8/2016 on which date, the petitioners had sought time to file written statement which was accordingly granted and the suit was adjourned to 6/10/2016. The learned trial court has noticed that on 6/10/2016 the petitioners had not sought any time. On subsequent two dates i.e. on 6/12/2016 and 15/12/2016 the Presiding Officer was not present and the Court was vacant. On 15/12/2016 itself, the petitioners filed an application seeking permission which came to be rejected.

4. On hearing the learned counsel for the parties and on perusal of the record, I find that the petition deserves to be allowed. The order sheet dated 6/10/2016 also shows that the matter was adjourned for reply. Be that as it may, it appears that the petitioner had filed an application seeking permission on 15/12/2016 when the Court was vacant and no orders could have been passed on the said date. Considering the overall circumstances, the petition is allowed. The impugned order is hereby set aside. The application D-32 is allowed as prayed. The

petition is disposed off in the aforesaid terms.

C. V. BHADANG, J.

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