

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NOS. 1030 & 1031 OF 2017****WRIT PETITION NO. 1030 OF 2017**

JAMES RODRIGUES (DEC) THR.
HIS LRS. AND ANR., PETITIONERS

Versus

THE CATHEDRAL CHAPTER OF
ARCHDIOCESE OF GOA AND
DAMAN, REP. BY ITS ATTORNEYS
AND ANR., RESPONDENTS

WRIT PETITION NO. 1031 OF 2017

JAMES RODRIGUES (DEC) THR.
HIS LRS. AND ANR., PETITIONERS

Versus

MILAGRES CARVALHO AND ANR., RESPONDENTS

Shri Deepak Gaonkar, Advocate for the Petitioners.

Shri Carlos Alvares Ferreira with Shri Shane Gomes, Advocates
for the Respondents.

CORAM : C.V. BHADANG, J.

DATE : 27th MARCH 2018

ORAL ORDER:

Both these petitions are between the same parties
and involve a common and connected issue and as such, they
are being disposed off by this common order.

2. The petitioners in Writ Petition No. 1030/2017 are the plaintiffs in Regular Civil Suit No. 67/2005/A and the defendants in Regular Civil Suit No. 61/2005/A. Both these suits are being simultaneously tried before the learned Trial Court. The orders impugned are dated 10.11.2017, by which, the evidence of the petitioners as plaintiffs in Regular Civil Suit No. 67/2005/A and their defence evidence in Regular Civil Suit No. 61/2005/A, has been closed.

3. I have heard Shri Gaonkar, the learned Counsel for the petitioners and Shri Ferreira, the learned Counsel for the respondents and perused the impugned orders and the record.

4. The record discloses that after the conclusion of the evidence of PW-2, Shri Pradeep Dangu, Surveyor, on 08.11.2017, the petitioners intended to examine the Civil Engineer, Shri Arun Patil. It appears that the suit was being heard on day to day basis. On account of some difficulty of Shri Arun Patil, an adjournment was sought on 10.11.2017, which the Trial Court has rejected, *inter alia*, on the ground that it is an old suit, in which, there are general directions to proceed expeditiously. The learned Trial Court also noted that there were three adjournments granted for examining the earlier

witness i.e. PW-2, Shri Pradeep Dangui, Surveyor.

5. On hearing the learned Counsel for the parties and on perusal of the records, it appear that insofar as the examination of PW-3, Shri Arun Patil is concerned, there was no adjournment sought, except on 10.11.2017 i.e. on the day on which the order was passed. Considering the overall circumstances, I find that in the interest of justice and for fair trial, an opportunity has to be granted to the petitioners to examine Shri Arun Patil. The learned Counsel for the petitioners undertakes that he will keep the witness present on the date, as may be fixed by the Trial Court. In that view of the matter, the petitions are allowed. The impugned orders dated 10.11.2017, are hereby set aside, subject to costs of Rs.2,500/- in each of the petitions, payable to the District Legal Services Authority, South Goa, Margao, within two weeks from today. The petitions are disposed of in the aforesaid terms.

C. V. BHADANG, J.

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