

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO. 457 OF 2019**

Comunidade of Sancoale, having its office at Sancoale, Through its Attorney, Mr. Satish Narvekar, aged 51 years, s/o Jagannath Narvekar, R/o H. No. 651, Fatorda, Margao, Goa. Petitioner

Versus

1. Mr. Mahendra Srinivas Caculo, s/o late Srinivas Sinai Bobo Caculo, aged 48 years, Engineer, R/o H. No. 507, near post office, Aquem, Margao-Goa.
2. Mrs. Leena Mahendra Caculo, w/o Mahendra Srinivas Caculo, aged 44 years, R/o 507, near post office, Aquem, Margao-Goa.
3. Administrator of Comunidade, South Goa, Margao, Goa. Respondents

Mr. Abhijit P. Gosavi, Advocate for the Petitioner.

Mr. Ashwin D. Bhobe, Advocate for Respondent Nos. 1 and 2.

CORAM : C.V. BHADANG, J.

DATE : 30th July, 2019

ORAL JUDGMENT:

On 06.06.2019, a notice for final disposal was issued to the contesting respondent nos. 1 and 2. I have heard Mr. Gosavi, the learned Counsel for the petitioner and Mr. Bhobe, the learned Counsel for the contesting respondent nos. 1 and 2 and the petition is being disposed off finally.

2. The petitioner, who is the original defendant no. 1, is challenging the order dated 04.02.2019 and 22.04.2019 (below Exhibit-119), passed by the learned Senior Civil Judge at Vasco in Special Civil Suit No. 19/2011/A.

By the order dated 04.02.2019, the further chief examination of DW-1 has been closed, as the petitioner has failed to produce the notarized copy of the extract of Register de Agrimissor 2010 1947 and by the subsequent order dated 22.04.2019, the Trial Court has refused to recall the order dated 04.02.2019.

3. Mr. Gosavi, the learned Counsel for the petitioner states that now the notarized copy of Register de Agrimissor 2010 1947 alongwith the complete English translation, is ready with the petitioner and it would be positively produced before the Trial Court on the next date.

4. Mr. Bhobe, the learned Counsel for the respondent nos. 1 and 2 has submitted that there were several opportunities granted to the petitioner to lead evidence and the notarized copy of the relevant register ought to have been kept ready.

5. I have considered the submissions made and I find that in the interest of justice and for fair trial, an opportunity needs to be granted to the petitioner to lead evidence in the suit.

6. In the result, the following order is passed:

O R D E R

- (i) The petition is allowed.
- (ii) The impugned orders dated 04.02.2019 and 22.04.2019, are hereby set aside.
- (iii) The learned Trial Court shall allow the petitioner to complete the evidence of DW-1, subject to the statement on behalf of the petitioner that DW-1 shall produce the notarized copy of Register de Agrimessor 2010 1947 alongwith complete English translation, on the next date.
- (iv) The petition is disposed off in the aforesaid terms with no order as costs.

C. V. BHADANG, J.

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