

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 730 OF 2018

PRAKASH HARISHCHANDRA DABHOLKAR., ... Petitioner

Versus

PANDURANG SITARAM VAST (DEC) THR.
HIS LRS., ... Respondent

Adv. Arjun F. Naik for the Petitioner.

Coram:- C. V. BHADANG, J.

Date:- 16th September, 2019

Oral Order:

Heard the learned counsel for the petitioner for some time.

The contesting respondents have chosen not to appear although served. The petitioner, who is the original defendant is challenging the order dated 2/5/2018 passed by the learned trial court below application (Exhibit 33) which was an application for amendment of the written statement. A perusal of the application (Exhibit 33) shows that the petitioner had sought amendment of two paras, namely paras 3 and 6 of the written statement. A bare perusal of the impugned order shows that the learned trial court has only referred to the amendment as proposed to sub para 3 of para 6. There is no reference to the proposed amendment in sub para 3 of para 3 of the written statement. The impugned order shows that the application has

been dismissed on the ground of non compliance with the proviso to Order VI Rule 17 of C.P.C as the trial had commenced. The contention on behalf of the petitioner is that there is no new case which is sought to be introduced or pleaded by virtue of the proposed amendment. In any event I find that the trial court has not considered the prayer for amendment as proposed in para 3 of the original written statement. It would be thus appropriate if the trial court reconsiders the application on its own merits. The petition is accordingly partly allowed. The impugned order dated 2/5/2018 is hereby set aside. The application (Exhibit 33) is restored back to the file of the learned trial court for deciding it afresh on its own merits and in accordance with law. The petition is disposed off in the aforesaid terms.

C. V. BHADANG, J.

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