

IN THE HIGH COURT OF BOMBAY AT GOA
WRIT PETITION NO.709 OF 2019

Mrs. Esther da Piedade Sankwalkar
Indian National, major in age,
residing near Chicalim Panchayat,
Near Canara Bank,
Chicalim Goa 403711 ... Petitioner

V e r s u s

Mrs. Christine Ruth Jorge,
Indian National, major in age,
Resident of Flat No.A-1 First Floor
Piety Manor, Behind St. Theresa's
High School Mangor Hill,
Vasco da Gama Goa 403802. ... Respondents

Mr. Menino Pereira, Advocate for the Petitioner.
Respondent present in person.

Coram :- C. V. BHADANG, J.
Date :- 19th August 2019.

ORAL JUDGMENT

1. Rule, made returnable forthwith. Heard finally by consent of parties.

2. I have heard Mr. Menino Pereira, the learned Counsel for the petitioner and the respondent who appears in person.

3. The challenge in this petition is to the order dated 02.08.2019, passed by the learned Senior Civil Judge at Vasco, in Regular Civil Suit No.17/2016/A by which an

application seeking time to cross examine Pw.1 has been dismissed and the cross examination of Pw.1 on behalf of the petitioner/defendant is closed.

4. A perusal of the impugned order shows that the learned Trial Court has refused to grant time on three grounds, first, that there are earlier adjournments sought and granted to the petitioner. Secondly, that the Junior Advocate who were appearing on record, could have cross examined Pw.1 in the absence of Mr. Pereira, who had sought time on the basis of his illness and, third, that the respondent had taken half day leave from her job to remain present for cross examination.

5. On hearing the learned Counsel for the petitioner and the respondent in person, it appears that the earlier adjournments sought were on account of the personal ground of Advocate Pereira and, on one date, it was sought on account of the death of his cousin. It is true that there are more than one occasion when the petitioner had sought time which was granted.

6. Mr. Pereira, learned Counsel for the petitioner states that the petitioner is willing to compensate the respondent with

reasonable costs as she was required to remain present after obtaining leave.

7. Considering over all circumstances, I find that subject to the condition of payment of appropriate costs, the petitioner needs to be granted an opportunity to cross examine Pw.1.

8. In such circumstances, the following order is passed :

ORDER

- (i) The petition is allowed.
- (ii) The impugned order is hereby set aside subject to the petitioner paying costs of Rs.8,000/- to the respondent on or before 21.08.2019.
- (iii) The petitioner shall be permitted to cross examine Pw.1 subject to the payment of such costs as aforesaid.

C. V. BHADANG, J.

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