

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO. 1005 OF 2018****SUNITA DEVENDRA DESHPRABHU AND
ANR.****... Petitioners****Versus****SITADEVI DESHPRABHU (DEC) REP.
THR. LRS. AND 6 ORS.,****... Respondents**

Adv. Parag S. Rao for the Petitioners.

Mr. S. Usgaonkar, Senior Advocate with Adv. A. Ramani for the
Respondents no.2 to 5.

Adv. D.J. Pangam for the Respondent no.6.

Adv. Ms. Shambhavi Rao, Advocate for the Respondent no.7.

With**WRIT PETITION NO. 1010 OF 2018****JITENDRA RAGHURAJ DESHPRABHU.,****... Petitioner****Versus****SITADEVI DESHPRABHU (DEC) REP.
THR. LRS. AND 7 ORS.,****... Respondents**

Adv. Ms. Shambhavi P. Rao for the Petitioners.

Mr. S. Usgaonkar, Senior Advocate with Adv. A. Ramani for the Respondent
nos. 1 to 6.

Adv. Parag Rao for the Respondent nos. 7 & 8.

With**WRIT PETITION NO. 1011 OF 2018****DEVENDRA RAGHURAJ DESHPRABHU.,****... Petitioner****Versus****SITADEVI DESHPRABHU ALSO KNOWN AS
JAIA VALAUCAR (DEC) THR. LRS. AND
7 ORS.,****... Respondents**

Adv. D. J. Pangam for the Petitioner.

Shri S. Usgaonkar, Senior Advocate with Adv. A. Ramani for the Respondent nos.1 to 6.

Adv. P. Rao with Adv. Ms. Shambhavi Rao for the Respondent no.7 & 8.

Coram:- C. V. BHADANG, J.

Date:- 20th February 2019.

Oral Order:

Heard the learned counsel for the parties for some time.

2. It transpired during the course of the arguments at bar that the petitioner basically wants to produce the judgment and order dated 8/9/2017 passed by the learned Senior Civil Judge at Mapusa in Port. Civil Misc. Appln. No.158/2006/A on record as it is a judgment inter parties having relevance with the issues involved in the suit.

3. Being a judgment of the competent court rendered inter parties, the Civil Court cannot ignore the judgment and the effect thereof on the issues involved in the suit.

4. Mr. Usgaonkar, the learned Senior Counsel for the respondents in all fairness did not dispute this aspect.

5. Even so far as the opinion rendered by Advocate Dairo Moura Vicente, is concerned, it was contended on behalf of the petitioner that he is an expert on the concerned legal provisions which according to the learned counsel for the petitioner is a foreign law. He relies on section 45 of the Evidence Act in order to submit that the opinion would be relevant.

6. Mr. Usgaonkar, the learned Senior Counsel, however, contended that the opinion as rendered by Advocate Dairo is not on the point of foreign law. He, however, submitted that the petitioner may examine the said witness subject to all just exception and objections being left open to the relevancy and admissibility of the evidence of Dr. Dairo.

7. The parties therefore submit that the petition can be disposed off, by consent, without recording detailed reasons.

8. The petitions are accordingly disposed of by consent of parties in the following terms:

(i) The petitioner shall be entitled to produce a copy of the judgment and order dated 8/9/2017 passed by the learned Senior Civil Judge at Mapusa in Port. Civil Misc. Appln. No.158/2006/A being a judgment delivered by a competent Court, inter parties. This shall be subject to the outcome of the appeal filed by the petitioner against the said judgment and order.

(ii) Rival contentions of the parties on the effect of the findings recorded in the said judgment, on the controversy involved in the suit, are left open.

(iii) The petitioner shall also be entitled to examine Advocate Mr. Dairo Moura Vicent and to produce his opinion on record. This shall be subject to all just exceptions to the admissibility, acceptability and the probative value to be attached to his evidence, in view of Section 45 of the Evidence Act and any other applicable provision.

(iv) In the circumstances there shall be no order as to costs.

C. V. BHADANG, J.

ap/-