

Andreza

IN THE HIGH COURT OF BOMBAY AT GOA
WRIT PETITION NO. 151 OF 2020

GAURI CURTORCAR

...PETITIONER

Versus

JAIDIP CURTORCAR.

...RESPONDENT

Mr. Vibhav Amonkar, Advocate U/LAS for the Petitioner.

Mr. J. J. Mulgaonkar, Advocate for the Respondent.

CORAM: MANISH PITALE, J

DATED: 20th September 2021

P.C.

1. By this Petition, the Petitioner (original Respondent) has challenged the order dated 30.09.2019 passed by the Court of Civil Judge, Senior Division at Margao, whereby an application filed by the Respondent herein (original Petitioner) for re-opening his evidence (Exhibit D-72), has been allowed.

2. According to Mr. Amonkar, the learned Counsel appearing for the Petitioner, the said application was filed at the stage when the recording of evidence was over and the Matrimonial Petition was adjourned for final arguments before the said Court. It is submitted that no exceptional circumstances were made out by the Respondent for reopening of his evidence and that the said Court has allowed the said application in a very casual manner, without assigning any reasons.

3. Mr. Mulgaonkar, learned Counsel appeared on behalf of the Respondent and he submitted that the application was correctly

allowed because the said document sought to be brought on record, according to him, shows the falsity of the case of the Petitioner before this Court.

4. Having heard the learned Counsel for the rival parties and upon perusal of the material on record, it is evident that the aforesaid Court has allowed the application at Exhibit D-72 after hearing the arguments, but, without assigning a single reason for allowing the said application. This is not the manner in which applications are to be dealt with, particularly when the stage of the proceedings admittedly was that the evidence of the parties had been recorded and the Matrimonial Petition was adjourned for final arguments before the Court below.

5. Therefore, on this short ground, the impugned order deserves to be set aside. Accordingly, the impugned order is set aside. The Court of the Civil Judge, Senior Division, Margao, is directed to hear arguments on the aforesaid application, at Exhibit D-72, again and pass a well reasoned order after considering the contentions of the rival parties.

6. This Court has not considered the merits of the matter and therefore, the aforesaid Court shall proceed to decide the application, at Exhibit D-72, uninfluenced by the order passed today by this Court.

7. The costs imposed in the impugned Order, if already paid, shall be refunded to the Respondent herein. The Application at Exhibit D-72 shall be decided within a period of four weeks from today.

8. Petition stands disposed of.

MANISH PITALE, J.

ANDREZA PEREIRA  Digitally signed by ANDREZA
PEREIRA
Date: 2021.09.20 17:58:15 +05'30'