

Vinita

**IN THE HIGH COURT OF BOMBAY AT GOA.
WRIT PETITION NO.916 OF 2019.**

- 1 Smt. Maria Monica Joanita Cruz, d/o
Diago Piedade Cruz, age about 68
years, House Wife, Along with her
Husband;
- 2 Shri Francisco Monte Piadade Cruz,
s/o. Domingos Piedade Cruz, age
about 74, both r/o. H. No.37 A Gold
Road, Paji Fond Margao Goa
403601. ...Petitioners.

Versus

Smt. Maria Mercy Suzana Fernandes, d/o.
Egidio Fernandes, aged about 64 years,
Spinster, r/o. Panorama Exclusive,
Bungalow No. 2, Near Micro Wave Station,
Monte Hill, Aquem Margao Goa, 403601. ...Respondent.

Mr. B. Rodrigues, Advocate for the petitioners.

Ms. P. Bandekar, Advocate for the respondent.

CORAM: C. V. BHADANG, J.
DATE: 26 April 2022.

ORAL JUDGMENT:

Rule. Rule made returnable forthwith. Ms. P. Bandekar, learned
Counsel waives notice on behalf of the respondent. Heard finally by
the consent of parties

2. The challenge in this petition is to the order dated 19.9.2019 passed by the learned Senior Civil Judge, Margao, in Regular Civil Suit no. 135/2013/III. By the impugned order, the evidence of the petitioners/defendants has been closed.

3. The aforesaid suit is filed by the respondent/plaintiff for recovery of an amount of ₹5,00,000/- with interest. The learned Trial Court after noticing the fact that repeated adjournments were sought for and granted for leading evidence, has closed the evidence of the petitioners.

4. The learned Counsel for the petitioners submitted that the petitioners may be granted opportunity to lead evidence subject to such conditions as may be deemed fit.

5. The learned Counsel for the respondent has opposed the same.

6. Upon hearing the learned counsel for the parties and in the interest of justice and fair trial, I find that the petitioners can be granted opportunity to lead evidence subject to payment of costs. The learned counsel for the petitioners submits that the petitioners shall examine two witnesses and shall not seek any further adjournment.

7. In the result, the following order is passed:-

(i) Petition is allowed.

- (ii) The impugned order is hereby set aside.
- (iii) The petitioners shall be allowed to lead evidence subject to payment of costs of ₹7,000/- to the respondent/her advocate or deposit in the Court within two weeks from today. Upon payment of the costs, the trial Court shall allow the respondents to lead her evidence. It is made clear that payment of costs, is a condition precedent for permission to lead evidence.
- (iv) Rule is made absolute in the aforesaid terms.

C. V. BHADANG, J.

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