

Esha

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 8 OF 2023

Mr. Shiva Krishna Gaons @ Gauns,
son of late Krishna Gauns, Age 70
years, Retired/Agriculturist, Married,
Resident of House No. 95, Ambeshi-
Wada Amona, Bicholim-Goa. ... PETITIONER

Versus

Goa State Infrastructure Development
Corporation Ltd., Represented by it's
Managing Director, having office at 7th
floor, EDC House, Dr. Atmaram
Borkar Road, Panaji-Goa. ... RESPONDENT

Mr. Sagar Dhargalkar, Advocate for the Petitioner.

Mr. Nikhil Vaze, Advocate for the Respondent.

CORAM: B.P. COLABAWALLA, J.

DATED: 14th FEBRUARY 2023

ORAL JUDGMENT:

1. Rule. With the consent of Parties, Rule made returnable forthwith and heard finally.

2. The above Writ Petition is filed assailing the order dated 26.09.2022 passed by the Civil Judge Junior Division, 'C' Court at Bicholim in Regular Civil Suit No. 32/2015/C, and consequently,

to grant the Application filed by the Petitioner before the Trial Court to allow the Power of Attorney Holder of the Petitioner to *inter alia* give and produce evidence on behalf of the Plaintiff/Petitioner in the aforesaid Civil Suit.

3. Mr. Vaze, the learned Advocate appearing on behalf of the Respondent, on instructions, submitted that without prejudice to the rights and contentions of the Respondent, the Power of Attorney Holder of the Plaintiff/Petitioner can be permitted to lead evidence. However, what evidentiary value is to be attached to the evidence led by the Power of Attorney Holder should be expressly kept open and would be determined at the final hearing of the Suit.

4. Considering the fair stand taken by Mr. Vaze, the order dated 26.09.2022 is hereby set aside and the Power of Attorney Holder of the Plaintiff/Petitioner is allowed to lead evidence on behalf of the Plaintiff/Petitioner in Regular Civil Suit No. 32/2015/C. It is made clear that by merely allowing the Power of Attorney Holder to lead evidence should not be construed to mean that he has any personal knowledge, and what weightage ought to be given to the evidence led by the Power of Attorney Holder

would be decided by the Trial Court when it finally hears the aforesaid Suit.

5. Rule is made absolute in the aforesaid terms and the Writ Petition is accordingly disposed of. However, there shall be no order as to costs.

6. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

B.P. COLABAWALLA, J.

VAIGANKAR
ESHA SAINATH

Digitally signed by
VAIGANKAR ESHA SAINATH
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