

Smt. Savitribai Raghuvir
Sinai Khandeparkar,
widow of late Raghuvir Sinai
Khandeparkar, major in age,
landlady, residing at
Sandeep Apartments,
Near Holiday Samrta,
Panaji, Goa. ... Petitioner.

VERSUS.

1. Shri Francisco Joao
Rodrigues, married,
major in age, domestic,
residing at Par, Usgaon,
Ponda, Goa.
(Since deceased) through
legal representatives:-
 - 1a) Smt. Maria Rodrigues,
and her husband,
 - 1b) Shri Domingos Fernandes,
both resident of
Azossim, Old Goa.
 - 1c) Smt. Pascola Rodrigues,
and her husband,
 - 1d) Shri William de Souza,
both residents of Khandepar.
 - 1e) Smt. Hiloria Rodrigues,
and her husband,
 - 1f) Shri Francisco Gomes,
both residents of Khandepar.
 - 1g) Smt. Perpetual Rodrigues,
and her husband:
 - 1h) Shri Napoleon Abreu,
both residents of
Moira, Bardez, Goa.
 - 1i) Smt. Rita Rodrigues,
and her huband,
 - 1j) Shri John Fernandes,
both residents of Khandepar. ... Respondents.

Mr. M.S. Usgaonkar, Senior Advocate with Mr. Iftikhar Agha, Advocate for the Petitioner.

Mr. J.E. Coelho Pereira, Senior Advocate with Mr. V. Korgaonkar, Advocate for the Respondents.

CORAM: P. V. KAKADE, J.

DATE: 12TH DECEMBER, 2002.

ORAL JUDGMENT:

Rule, Rule made returnable forthwith by consent. Heard the learned counsel for both the sides.

2. The petitioner has come with this petition against the Order passed by the learned Trial Judge on an application for production of documents filed by the petitioner/plaintiff in Regular Civil Suit No.50/88/D.

3. Admittedly the evidence of the plaintiff is over and the defendant is under cross-examination. The plaint was also amended in the meantime. When the defendant was under cross-examination, the plaintiff moved an application (Exh.92) in the suit stating that in view of the amendment of the plaint, she desired to rely on some additional documents which were necessary to decide the issue involved in the suit and instead filed documents which were basically public documents. The learned Trial Judge heard both sides and came to the conclusion that in

view of the amended provisions of Order 13 of C.P.Code, the stage for production of documents was over and the petitioner was not entitled to produce documents subsequent to settlement of issues and, as such, rejected the application. Hence this petition.

4. In this regard, it must be noted that the plaint was amended and at that time certain documents were not produced along with the amended plaint. However, the public documents which were sought to be produced were, at the time of cross examination of the defendant. Sub-Rule (3) of Rule 1 of Order 13 of C.P. Code makes it clear that nothing in Sub-Rule (1) shall apply to documents which are produced for the cross-examination of the witnesses of the other party. In this situation, there cannot be any bar of Rule 1 of Order 13 of the C.P. Code for production of documents on record for the purpose of confrontation of the witness under cross-examination, if so desired. In view of this situation, in my view the learned Trial Judge has fallen in error in holding that there is total bar of production of documents subsequent to settlement of issues.

5. I hold that the plaintiff shall be entitled to produce additional documents, provided they pass the test of relevancy, only for the limited

purpose of confrontation of the defendant in the course of cross-examination. The Trial Court is directed to act accordingly in view of the observations made hereinabove.

6. With these observations, the Petition stands disposed of.

P. V. KAKADE, J.

sl.