

**IN THE COURT OF CIVIL JUDGE, JUNIOR
DIVISION "C" COURT, PANAJI.**

**(Before Miss Vaishali Lotlikar, Civil Judge
Junior Division 'C' Court, Panaji, Goa)**

Regular Civil Suit no. 11/13/C

1. Mr. D. Ravishankar,
50 years,
Residing at 283, 'Amma'
7th cross, I Block,
Jayanagar, Bangalore.

2. Mr. B.S.N. Hari,
51 years,
Residing at No.473,
9th cross, I Block,
Jayanagar, Bangalore. ...

Plaintiffs

V e r s u s

1. Mrs. Luiza Arauzo e Afonso,
Luiza Apartment,
1st floor, Marcel, Goa.

2. Mr. Avelino Juan Arauzo Afonso,
Luiza Apartment,
1st floor, Marcel, Goa.

3. Mr. Manuel Arauzo,
V.V. & Sons Building,
A1 Fahidia Street,
4th floor, flat no.13,
Burdubai, Dubai,
United Arab Emirates (UAE)
C/o Monica Arouzo,]
Post Box no.8405,
Times Mission Group,
Dubai (UAE) and or
Permanent resident of
Fonduvem, Ribandar,
Panaji, Goa.
House No. not known.

4. Mrs. Monica Arauzo,
V.V. & Sons Building,
A1 Fahidia Street,
4th floor, flat no.13,
Burdubai, Dubai,
United Arab Emirates (UAE)
C/o Monica Arouzo,]
Post Box no.8405,

Times Mission Group,
Dubai (UAE) and or
Permanent resident of
Fonduvem, Ribandar,
Panaji, Goa.
House No. not known.

5. The Sub Registrar,
Ilhas,
Panaji, Goa.

6. State of Goa,
Through the Chief Secretary,
Alto Porvorim,
Bardez, Goa.

7. Denis Fernandes,
Major of age, Indian National,
Temporarily residing at
House no. 148,
Fondvem, Ribander.

... Defendants

Ld. Adv. Fonseca present for the plaintiff

Ld. Adv. G. Pai for the defendant no.7

Defendant nos. 1 and 2 proceeding exparte.

Defendant nos. 3 and 4 absent.

Defendant nos. 5 and 6 deleted.

O R D E R

(Delivered on this 23rd day of the month of August,
of the year 2016.)

Heard Ld. Adv. Fonseca for the plaintiffs and
Ld. Adv. G. Pai for defendant no.7. Perused the
application at exh.22 and reply at exh.25.

2) The present suit is for specific performance
and injunction. The plaintiffs have filed the present
application under Order 18 Rule 16 of CPC seeking
permission from the Court to examine one Mr.
Pandurang Parushan. According to the plaintiffs said
witness is suffering from cancer and therefore he
being vital witness the plaintiff is desiring to
examine him before the examination of the plaintiff
and produced medical records.

3) The defendants opposed the same on the
ground that the medical records are manipulated
and are not related to cancer.

4) I have perused the record. The application is
supported with the medical records of the
Pandurang which reveals that he is suffering from

prostate cancer. The plaintiff has also filed affidavit in that regard, to substantiate its case.

5) Adv. Fonseca for the plaintiff has placed reliance on the judgment of **Daman Kumar Malhotra v. A. K. Malhotra (2006) 142 PLR 2**, wherein it is observed that intention behind the provisions of order 18 with Rule 16 CPC is to record the evidence of witness at any after institution of suit if the said witness may not be available in future.

6) Therefore from the above I am of the view that as the proposed witness is suffering from prostate cancer, it will be proper in the interest of justice to examine the witness immediately.

7) Hence, in view of the above application stand granted .

(Miss Vaishali Lotlikar)
Civil Judge, Junior Division
O'C' Court Panaji Goa