

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 67 OF 2015

MRS. MARIQUINHA D'COSTA AND 2
ORS.,

... Petitioners

Versus

MR. ALEXANDER REBELLO (DEC) THR.
LRS., AND 4 ORS.,

... Respondents

Mr. J. Abreu Lobo, Advocate for the Petitioners.

Coram:- N. M. JAMDAR, J.

Date:- 28th January, 2015

ORAL ORDER:

By this petition, the petitioners challenge the order passed by the learned Civil Judge, Junior Division, Margao-Goa dated 19/1/2015 rejecting the application made by the petitioners to place on record certified copies of the documents of Regular Civil Suit no.244/93/D.

2. According to the petitioners, the Regular Civil suit no.244/93/D which was decided on 7/2/2002, relates to the same property, which is the subject matter of the present suit. According to them, though the suit was amongst different parties, based on these documents, the petitioners can demonstrate that the petitioners' claim for right of way through the suit property is justified.

3. The learned Judge rejected the application on the ground that none of the parties to the present suit are parties in Regular Civil Suit

no.244/93/D and the admissions made in the written statement in the suit are not binding on the present defendants. The learned counsel for the petitioners submitted that this view is perverse and the defendant in Regular Civil Suit no.244/93/D is a close relative of the defendant no.5 in the present suit.

4. Had the petitioners moved the application for production of these documents on record during the earlier stage of the suit, the considerations to interfere in writ jurisdiction may have been different. The arguments in the suit are completed and the suit is now final order. Merely because on the basis of pleadings in some other suit between different parties, the petitioner can argue another ground, the learned Civil Judge cannot be asked to reopen the entire matter. The petitioners ought to have produced the proceedings of the year 2002 earlier, particularly when the petitioners also reside in the same locality and also could have made independent inquiry amongst the neighbours, regarding the litigation. In view of this position, no interference is called for in the impugned order. The writ petition is accordingly rejected.

N. M. JAMDAR, J.

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