

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 364 OF 2015

SHRI. ANAND V. KAREKAR AND 4 ORS., ... Petitioners
Versus
VASANALI ISANI AND 15 ORS., ... Respondents

Mr. Sebastian Vales, Advocate for the Petitioners.
Mr. J. Godinho, Advocate for the Respondent nos.1 and 2.

Coram:- F. M. REIS, J.

Date:- 12th June, 2015

P.C.

Heard Shri Vales, learned Counsel appearing for the Petitioners and Shri Godinho, learned Counsel appearing for the Respondent nos.1 and 2.

2. The above Writ Petition takes exception of an Order dated 29.04.2015 whereby an application for amendment filed by the Petitioners came to be dismissed.

3. Shri Vales, learned Counsel appearing for the Petitioners, in support of the above Petition has strongly argued that the application for amendment was necessitated in view of the leave granted to the Respondents to produce additional documents by an Order dated 27.03.2015. Learned Counsel further pointed out that according to the Petitioners, all such documents sought to be relied upon are

fraudulent documents executed by collusion between the parties. Learned Counsel further submits that the learned Judge has not at all appreciated the arguments advanced by the Petitioners in support of the case of the Petitioners for leave to amend the pleadings. Learned Counsel has taken me through the impugned Order to point out that the learned Judge has erroneously appreciated the contentions of the Petitioners and dismissed the application for amendment. The learned Counsel has also pointed out that grave injustice would occasion to the Petitioners as, according to him, the evidence of the Petitioner has already been concluded much before such leave came to be granted to the Respondents. The learned Counsel further submits that the impugned Order be quashed and set aside.

4. On the other hand, Shri J. Godinho, learned Counsel appearing for the Respondent nos. 1 and 2, pointed out that the Petitioners are only bent on delaying the proceedings and are taking advantage of the status quo Order obtained upon the statement of the Respondents which is causing grave and irreparable injury to the Respondents. Learned Counsel further pointed out that the Petitioners have been filing applications which include amendment applications only to delay the matter. Learned Counsel has thereafter taken me through the impugned Order to highlight the observations of the learned Judge about the conduct of the Petitioners in pursuing the suit. Learned Counsel further submits that the application for amendment is an abuse to the process of Court and, consequently, the question of

any interference in the impugned Order would not arise.

5. I have considered the submissions of the learned Counsel. I have also gone through the records. The learned Judge whilst passing the impugned Order by cogent reasons has refused to exercise discretion to grant leave to the Petitioners to amend the pleadings. Considering that the suit has been expedited by this Court at the instance of the Petitioners, I find that the question of interfering in the impugned Order at this stage would not at all be justified. There is no jurisdiction error committed by the learned Judge whilst passing the impugned Order. But, however, the Petitioners, if so advised, are at liberty to challenge the impugned Order in case an adverse Judgment is passed against the Petitioners at the time of the final disposal of the suit.

6. Be that as it may, taking note of the contention of Shri Vales, learned Counsel appearing for the Petitioners, that the Petitioners did not get an opportunity to meet the documents produced by the Respondents as the evidence of the Petitioners had already been concluded before such leave, I find it appropriate, in the interest of justice, to grant leave to the Petitioners to lead evidence in rebuttal, if any, in answer to such documents which were permitted to be relied upon by the learned Judge by Order dated 27.03.2015.

7. Subject to the above and reserving the right of the Petitioners, if

so advised, to challenge the impugned Order in case any adverse Judgment is passed against the Petitioners at the time of the final disposal of the suit, the Petition stands disposed of.

F. M. REIS, J.

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