

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO. 636 OF 2015**

1. Mr. Nelson Thomas D'Silva,
and his wife,
 2. Mrs. Catherine Rose D'Silva,
major of age, through her
duly constituted Power of
Attorney Holder Mr. Nelson
Thomas D'Silva,
both major of age and
residing at T-9, Block-4,
Pai Bhavan, Tonca,
Caranzalem, Goa.
- ... Petitioners

Versus

1. Mrs. Smita Krishnanath Bhonsle,
and her husband,
2. Mr. Krishnanath Y. Bhonsle,
both major of age and residing at
H. No. 144/5, Torda,
Salvador-do-Mundo,
Bardez – Goa.
3. The Village Panchayat of Salvador-
do-Mundo, through it's Sarpanch/
Secretary, having it's office in the
premises of the Village Panchayat,
Salvador-do-Mundo,
Bardez – Goa.
4. Mrs. Palmira Salvacao Da Cunha
e Souza Da Silva,
major of age, residing at
1260 Mississauga Road,
Mississauga, Ontario, Canada.

5. Mr. Clifford Antonio Brigido De Silva,
major of age, residing at 1260,
Mississauga Road,
Mississauga, Ontario, Canada. ... Respondents

Mr. Ressano Hector Noronha, Advocate for the Petitioners.

Mr. Joaquim Godinho, Advocate for the Respondent Nos. 1 and 2.

CORAM:- C. V. BHADANG, J.

DATE:- 29th SEPTEMBER, 2015.

ORAL JUDGMENT:

Rule. Rule made returnable forthwith. Mr. Godinho, learned Counsel waives service on behalf of the respondent nos. 1 and 2. Respondent nos. 4 and 5 are stated to be ex-parte before the trial Court. In view of the limited issue involved, the service of Rule on respondent nos. 3, 4 and 5 is dispensed with. Heard finally with the consent of the learned Counsel for the parties.

2. In a suit being Special Civil Suit No. 12/2013/C pending on the file of the Senior Civil Judge, Mapusa filed by the petitioners, the respondent nos. 1 and 2 filed an application (Exhibit D-15) seeking

extension of time to file written statement as the statutory time of 90 days for filing the written statement had expired on 25.05.2013. The learned trial Court by an order dated 06.11.2014 has condoned the delay and allowed the written statement alongwith the counter claim to be taken on record. This is the order which is the subject matter of challenge in this writ petition.

3. It is submitted by Mr. Noronha, the learned Counsel for the petitioners that the order is an unreasoned order and does not consider the contentions raised while opposing the application for extension of time to file the written statement. Alternatively, it is submitted that the respondent nos. 1 and 2 be imposed with some costs for not filing the written statement in time.

4. Mr. Godinho, the learned Counsel for the respondent nos. 1 and 2 submits that the trial Court having considered the application has condoned the delay and in the absence of any material irregularity as to exercise of jurisdiction and/or any prejudice to the petitioners, the same does not call for any interference.

5. I have considered the rival circumstances and the submissions made. There is a delay of 36 days in filing the written statement. Considering this and having regard to the alternate submission on behalf of the petitioners, I find that the impugned order can be maintained subject to, payment of costs of Rs.10,000/- to the petitioners, within a period of two weeks from today.

6. Rule is made absolute in the aforesaid terms, with no order as to costs.

C. V. BHADANG, J.

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