

**IN THE HIGH COURT OF BOMBAY AT GOA
WRIT PETITION NO. 41 OF 2015**

1. Shri Satchit Gajanan Naik,
65 years of age and his wife.
2. Smt. Sarita Satchit Naik,
52 years of age,
both r/o. Opp. Corporation bank,
Vidyanagar, Gogol, Margao-Goa. ... Petitioners

Versus

1. Shri Premanand Gaja +
2. nan Naik,
71 years of age and his wife,
2. Smt. Pramila Premanand Naik,
65 years of age,
both r/o. Satyawati Plaza,
Housing Board Road,
Gogol, Margao-Goa. ... Respondents

Mr. V.G.P. Duple, Advocate for the Petitioners.

Mr. Sudesh Usgaonkar, Advocate for the Respondents.

Coram:- N. M. JAMDAR, J.

Date:- 9th February, 2015

ORAL JUDGMENT :

Rule. Rule made returnable forthwith. Respondents

waive service.

2. By this petition, the petitioners pray for quashing and setting aside the order passed by the Civil Judge Senior Division, Margao dated 21 June 2014 rejecting the application filed by the petitioners for extension of time to file written statement.

3. The suit is filed by the respondents for partition of the property. The petitioners appeared in the suit on 3rd April 2014 and sought time to file written statement. Extensions were granted. Thereafter by the impugned order dated 2 August 2014 further time to file written statement was refused.

4. Mr. V.G.P. Duple, the learned Counsel for the petitioners submitted that the delay beyond 90 days is miniscule and ought to have been granted by the Court. Mr. Duple submitted that there is delay of only one week after expiry of 90 days. The application was resisted on the ground that statutory period of 90 days is over. The impugned order is one line order which says that application is rejected for want of good cause.

5. Considering the facts and circumstances the Writ Petition requires to be allowed and time be granted to the petitioners to file their written statement.

6. Shri Sudesh Usgaonkar, the learned Counsel for the respondents submitted that the petitioners should be put to

certain terms and also costs be directed to be paid since petitioners have deliberately not filed written statement in time so as to continue to enjoy the property.

7. The petitioners shall file written statement within a period of two weeks from today, failing which their right to file written statement shall stand forfeited. Petitioners shall also pay costs of Rs.3,000/- to the respondents within a period of two weeks.

8. Considering the suit is of partition between brothers who are both of advanced age, learned Civil Judge will consider giving priority to the disposal of the suit if there are no other earlier time bound commitments. Rule made absolute in the above terms. Petition stands disposed of.

N. M. JAMDAR, J.

NH