

IN THE HIGH COURT OF BOMBAY AT GOA

SECOND APPEAL NO. 38 OF 2015

MR. FRANCISCO ANTONIO ABEL PEREIRA
E SILVEIRA (SINCE DEC.) THR. HIS
LEGAL REPRESENTATIVES.,

... Appellant

Versus

MRS. FRANCISCA MARQUES PEREIRA E
SILVEIRA AND 2 ORS.,

... Respondents

Mr. R. Noronha, Advocate for the appellant.

Mr. M. B. D'Costa, Senior Advocate a/with Ms. Soniya Chodankar,
Advocate for the respondents. Nos.1 to 3.

Coram:- C. V. BHADANG, J.

Date:- 4th July, 2015

P.C.

Heard Mr. Noronha, the learned counsel for the appellant and Mr. M. B. D'Costa, the learned senior counsel for the respondents. It is submitted that the judgment and order challenged is that of the Appellate Court remanding the suit to the trial Court. It is submitted that against such order, an appeal under Order 43 Rule 1(u) of the Code of Civil Procedure would lie and not a second appeal. Faced with this situation the learned counsel for the appellant, on instructions, seeks permission to withdraw the second appeal with liberty to file appropriate proceedings, as may be permissible in law.

2. In such circumstances, the second appeal is disposed of as

withdrawn with liberty as prayed.

C. V. BHADANG, J.

ssk