

IN THE HIGH COURT OF BOMBAY AT GOA.

WRIT PETITION NO. 763 OF 2014.

Shri Mario Cotta Pereira, landlord,
major, resident of House No.43,
Behind 'Cine Metropole', Tembim,
Margao, Goa.

..... Petitioner.

Versus

- 1 State of Goa,
through its Chief Secretary,
with office at Secretariat,
Complex, Porvorim,
Bardez, Goa.
- 2 The Collector of South Goa,
with office at Collectorate,
Margao, Goa.
- 3 The Dy. Collector/ Land
Acquisition Officer, South
Goa Division, Collectorate,
Margao, Goa.
- 4 Shri Andrade @ Andrew
Vaz (deceased) through
legal heir:
- 4a Maria alias Joaquina
Fernandes, major in age,
widow of late Andrade @
Andrew Vaz, major,
occupation housewife,
resident of H. No. 370,
Firgulem, Aquem Baixo
village, Navelim, Salcete,
Goa.
- 5 Smt. Rosalina Cardozo,
(deceased) through legal
heir,
- 5a Lorenzo Vaz, major of age,
son of late Rosalina
Cardozo, Occupation not
known, resident of H. No.
369, Firgulem, Aquem
Baixo Village, Navelim,
Salcete - Goa.

- 6 Smt. Rufina Vaz (deceased)
through legal heir:
- 6a Jose Mario Vaz, major of
age, son of late Rufina Vaz,
resident of H. No. 368,
Firgulem, Aquem Baixo
Village, Navelim, Salcete-
Goa.
- 7 Smt. Augustinho Vaz
(deceased) through legal
heir:
- 7a Pascoal Vaz, major of age,
son of late Agostinho Vaz,
resident of H. No. 367,
Firgulem, Aquem Baixo
Village, Navelim, Salcete-
Goa.
- 8 Shri Francisco Costa
(deceased) through legal
heir:
- 8a Camilo Costa, major of age,
son of late Francisco Costa,
resident of H. No. 366,
Firgulem, Aquem Baixo
Village, Navelim, Salcete-
Goa.
- 9 Shri Salvador Peixoto,
(deceased) through legal
heir:
- 9a Smt. Paulina Colaco, major
of age, widow of late
Salvador Peixoto, resident
of H. No. 365, Firgulem,
Aquem Baixo Village,
Navelim, Salcete-Goa.
- 10 Shri Alex Vaz (deceased)
through legal heir:
- 10a Carlos Vaz, major of age,
son of late Alex Vaz,
resident of H. No. 363,
Firgulem, Aquem Baixo
Village, Navelim, Salcete-
Goa.
- 11 Shri Manuel Fernandes

(deceased) through legal heirs:

- 11a Camilo Fernandes, major of age, son of late Manuel Fernandes,
- 11b Smt. Xaverina Fernandes, major of age, daughter of late Manuel Fernandes, both residents of H. No. 361, Firgulem, Aquem Baixo Village, Navelim, Salcete-Goa.
- 1c Caetana Fernandes @ Caetana Souza, major of age, daughter of late Manuel Fernandes, widow of Joaquim Mariano Souza,
- 11d Joaquim Mariano Souza, major of age, son-in-law of late Manuel Fernandes, both residents of H. No. 361/B, Firgulem, Aquem Baixo Village, Navelim, Salcete-Goa.
- 12 Shri Joaquim Rosario Vaz (deceased) through legal heir:
 - 12a Bendito Joao Vaz, major of age, son of late Joaquim Rosario Vaz, resident of H. No. 360, Firgulem, Aquem Baixo Village, Navelim, Salcete-Goa.
- 13 Shri Aristo Vaz (deceased) through legal heir:
 - 13a Conceicao Vaz, major of age, son of late Aristo Vaz, resident of H. No. 358, Firgulem, Aquem Baixo Village, Navelim, Salcete-Goa.
- 14 Shri Jose Vaz @ Alex Vaz (deceased) through legal heir:
 - 14a Santan Francisco Vaz,

- major of age, son of late Jose Vaz @ Alex Vaz, resident of H. No. 359, Firgulem, Aquem Baixo Village, Navelim, Salcete-Goa.
- 15 Shri Jose Manuel Vaz (deceased) through legal heir:
- 15a Smt. Bernadita Vaz, major of age, daughter-in-law of late Jose Manuel Vaz, resident of H. No. 357, Firgulem, Aquem Baixo Village, Navelim, Salcete-Goa.
- 16 Shri Sebastian Vaz (deceased) through legal heir:
- 16a Smt. Avelina Vaz , Major of age, daughter-in-law of late Sebastian Vaz, resident of H. No. 355, Firgulem, Aquem Baixo Village, Navelim, Salcete-Goa.
- 17 Shri Tomacinho Fernandes, major of age, resident of H. No. 329, Firgulem, Aquem Baixo Village, Navelim, Salcete-Goa.
- 18 Smt. Maria Philip Vaz, major of age, resident of H. No. 330, Firgulem, Aquem Baixo Village, Navelim, Salcete-Goa.
- 19 Smt. Isabella Braganza, major of age, resident of H. No. 327, Firgulem, Aquem Baixo Village, Navelim, Salcete-Goa.
- 20 Smt. Joaquim Fernandes (deceased) through legal heir:
- 20a Roque Fernandes, major of age, son of late Joaquim

Fernandes, resident of H. No. 328, Firgulem, Aquem Baixo Village, Navelim, Salcete-Goa.

21 Smt. Rosa Fernandes (deceased) through legal heirs:

21a Smt. Romaldina Vaz, major of age, daughter of late Rosa Fernandes,

21b Smt. Claudina Vaz, major of age, daughter of late Rosa Fernandes, both residents of H. No. 324, Firgulem, Aquem Baixo Village, Navelim, Salcete-Goa.

22 Shri Francisco Vaz (deceased) through legal heirs:

22a Smt. Francica Vaz, major of age, widow of late Francisco Vaz,

22b Luciano Vaz, major of age, son of late Francisco Vaz,

22c Luis Vaz, major of age, son of late Francisco Vaz, All residents of H. No. 325, Firgulem, Aquem Baixo Village, Navelim, Salcete-Goa.

23 Shri Andrew Vaz, (deceased) through legal heirs:

23a Vicente Vaz, major of age, son of late Andrew Vaz, resident of H. No. 322, Firgulem, Aquem, Baixo Village, Navelim, Salcete-Goa.

23b Gregoria @ Gregorio Jose Vaz, major of age, son of late Andrew Vaz, resident of H. No. 322/A, Firgulem, Aquem, Baixo Village, Navelim, Salcete-Goa.

- 24 Shri Joao Braganza,
(deceased) through legal
heirs:
- 24a Francisca Braganza, major
of age, widow of late Joao
Braganza,
- 24b Joao M. Braganza, major of
age, son of late Joao
Braganza,
- 24c Conceicao Braganza, major
of age, son of late Joao
Braganza,
All r/o of H. No. 321,
Firgulem, Aquem, Baixo
Village, Navelim, Salcete-
Goa.
- 25 Shri Joao Lourenco
(deceased) through legal
heirs:
- 25a Joaquim Vaz, major of age,
son of late Joao Lourenco
Vaz,
- 25b Alcantra @ Alcantro Vaz,
major of age, son of late
Joao Lourenco Vaz,
- 25c Santan Vaz, major of age,
son of late Joao Lourenco
Vaz,
- 25d Ubaldo Vaz, major of age,
son of late Joao Lourenco
Vaz,
- 25e Sebastiao Vaz, major of
age, son of late Joao
Lourenco Vaz,
All residents of H. No.
320, Firgulem, Aquem,
Baixo Village, Navelim,
Salcete-Goa.
- 26 Shri Lorenzo Vaz &
Milagrina Vaz (deceased)
through legal heirs:
- 26a Custodio Sebastiao Rosario
Vaz, major of age, son of
late Lourenco@ Lorenzo

- Vaz and Margarida Vaz,
resident of H. No. 318,
Firgulem, Aquem, Baixo
Village, Navelim, Salcete-
Goa.
- 27 Shri Paulo Vaz & Clement
Vaz & Conceicao Vaz
(deceased) through legal
heirs:
- 27a Smt. Andrez Vaz, major of
age, widow of late Paulo
Vaz,
- 27b Willy Vaz, major of age, son
of late Paulo Vaz, Both
residents of H. No. 317/A,
Firgulem, Aquem, Baixo
Village, Navelim, Salcete-
Goa.
- 27c Dionisio Vaz, major of age,
son of late Clement Vaz,
- 27d Ezabel Braganza Vaz, major
of age widow of late
Conceicao Vaz,
- 27e Antonio Vaz, major of age,
s/o late Conceicao Vaz,
Both r/o. H. No. 317/B,
Firgulem, Aquem, Baixo
Village, Navelim, Salcete-
Goa.
- 28 Shri Jacob Vaz,(deceased)
through legal heirs:
- 28a Jose Vaz, major of age, son
of late Jacob Vaz, resident
of H. No. 317, Firgulem,
Aquem, Baixo Village,
Navelim, Salcete-Goa.
- 29 Shri Inacina Fernandes
(deceased) through legal
heirs:
- 29a Francisco Vaz, major of
age, son of late Inacina
Fernndes,
- 29b Constancio Vaz, major of
age, son of late Inacina

- Fernandes,
- 29c Magdalena Vaz, major of age, daughter-in-law of late Inacina Fernandes, All residents of H. No. 314, Firgulem, Aquem, Baixo Village, Navelim, Salcete-Goa.
- 30 Smt. Jesuina Fernandes, major of age, resident of H. No. 314/1, Firgulem, Aquem, Baixo Village, Navelim, Salcete-Goa.
- 31 Shri Avelina Fernandes, (deceased) through legal heirs:
- 31a Smt. Xaverina Vaz, major of age, daughter of late Avelina Fernandes,
- 31b Jose Vaz, major of age, son-in-law of late Avelina Fernandes, both residents of H. No. 312, Firgulem, Aquem, Baixo Village, Navelim, Salcete-Goa.
- 32 Smt. Antoneta Vaz, major of age, resident of H. No. 313, Firgulem, Aquem, Baixo Village, Navelim, Salcete-Goa.
- 33 Shri Gaspar Vaz (deceased) through legal heir:
- 33a Rui Vaz, major of age, son of late Gaspar Vaz, resident of H. No. 309, Firgulem, Aquem, Baixo Village, Navelim, Salcete-Goa.
- 34 Shri Joaquim Vaz & Joaquina Vaz, (deceased) through legal heirs:
- 34a Epifanio Vaz, major of age, son of late Joaquim Vaz and Joaquina Vaz.
- 34b Sebastian Vaz, major of

age, widow of Epifanio Vaz,
both residents of H. No.
311, Firgulem, Aquem,
Baixo Village, Navelim,
Salcete-Goa.

- 35. Shri Antonio Vaz
(deceased) through legal
heir:
 - 35(a) Damaciano Vaz, major of
age, son of late Antonio
Vaz, resident of H. No. 349,
Firgulem, Aquem Baixo
Village, Navelim, Salcete-
Goa.
- 36. Shri Joaquim Vaz
(deceased) through legal
heirs:
 - 36(a) Mario L. Vaz, major of age,
son of late Joaquim Vaz,
 - 36(b) Pedro Caetano Vaz, major
of age, son of late Jacob
Vaz, resident of H. No. 350,
Firgulem, Aquem Baixo
Village, Navelim, Salcete-
Goa.
- 37. Shri Caetano Vaz
(deceased) through legal
heir:
 - 37(a) Sebastiano @ Sebastiao
Vaz, major of age, son of
late Jacob Vaz, resident of
H. No. 348, Firgulem,
Aquem Baixo Village,
Navelim, Salcete-Goa.
- 38. Shri Antonio Francisco @
Remedios Vaz (since
deceased) represented by
his legal representatives,
 - 38(i) Estevao alias Stephen Vaz,
major of age, son of late
Antonio Remedios Vaz,
resident of H. No. 347,
Firgulem, Aquem Baixo
Village, Navelim, Salcete-
Goa.

- 38(ii) Facanda Vaz, major of age, widow Estevao alias Stephen Vaz, resident of H. No. 347, Firgulem, Aquem Baixo Village, Navelim, Salcete-Goa.
39. Shri Socorro Fernandes, major of age, resident of H. No. 344/B, Firgulem, Aquem Baixo Village, Navelim, Salcete-Goa [also resident House N o. 75/A, Behind Apollo Victor Hospital, Malbhat, Margao-Goa.]
40. Union of India, through Department of Defense, Defense Ministry, South Block, New Delhi, represented by the Defense Secretary, having his office at 101-17, South Block, New Delhi-India.
41. Shri Gurudas Kudalkar, major of age, son of late Atmaram, Lingu Kudalkar, resident of H. No. 345, near Aquem Baixo, Village Panchayat Building, Firgulem, Aquem Baixo Village, Navelim, Salcete-Goa.
42. Manuel T. Vaz, major of age, son of late Menino F. M. Vaz, resident of H. No. 346, near Aquem Baixo, Village Panchayat Building, Firgulem, Aquem Baixo Village, Navelim, Salcete-Goa.
43. Tolantino Vaz, major of age, son of Smt. Isabella Fernandes, resident of H. No. 344, near Aquem Baixo, Village Panchayat Building, Firgulem, Aquem Baixo Village, Navelim,

Salcete-Goa.

44. Smt. Monica Vaz, major of age, wife of late Mariano Piedade Vaz, resident of H. No. 342, near Aquem Baixo, Village Panchayat Building, Firgulem, Aquem Baixo Village, Navelim, Salcete-Goa.
45. Smt. Ana Maria Cardozo, major of age, daughter of late Joaquim Vaz, resident of H. No. 341, near Augem Baixo Village Panchayat Building, Firgulem, Aquem Baixo Village Navelim, Salcete Goa.
46. Smt. Sebastian P. Vaz, major of age, daughter-in-law of late Barbin Braganza, resident of H. No. 340, near Aquem Baixo, Village Panchayat Building, Firgulem, Aquem Baixo Village, Navelim, Salcete-Goa.
47. Shri Santan Miranda, major of age, son of late Pedro Francisco Miranda, resident of H. No. 338, near Aquem Baixo, Village Panchayat Building, Firgulem, Aquem Baixo Village, Navelim, Salcete-Goa.
48. Smt. Catarina Fernandes, major of age, daughter-in-law of late Nicael Dias,
49. Tomson@ Thomson Fernandes, major of age, son of late Nicael Dias,
50. Diana Fernandes, major of age, daughter of late Nicael Dias,
all three above residing at H. No. 339, near Aquem

- Baixo, Village Panchayat Building, Firgulem, Aquem Baixo Village, Navelim, Salcete-Goa.
51. Smt. Santolina Vaz, major of age, daughter-in-law of late Maria Piedade Braganza, resident of H. No. 336, near Aquem Baixo, Village Panchayat Building, Firgulem, Aquem Baixo Village, Navelim, Salcete-Goa.
52. Florin Dias, major of age, father's name not known, resident of H. No. 336/B, near Aquem Baixo, Village Panchayat Building, Firgulem, Aquem Baixo Village, Navelim, Salcete-Goa.
53. Smt. Augusta Fernandes, major of age, daughter of late Mariana Vaz, resident of H. No. 337, near Aquem Baixo, Village Panchayat Building, Firgulem, Aquem Baixo Village, Navelim, Salcete-Goa.
54. Shri Salvador Gomes, major of age, son of late Joaquim Pedro Gomes,
55. Shri Rosario Gomes major of age, son of late Joaquim Pedro Gomes, both residents of H. No. 335/A, near Aquem Baixo, Village Panchayat Building, Firgulem, Aquem Baixo Village, Navelim, Salcete-Goa.
56. Smt. Santana Gomes major of age, wife of late Domingo Santano Gomes, resident of H. No. 335/A, near Aquem Baixo, Village

- Panchayat Building,
Firgulem, Aquem Baixo
Village, Navelim, Salcete-
Goa.
57. Smt. Felicidade Gomes,
major of age, resident of H.
No. 335/B, near Aquem
Baixo, Village Panchayat
Building, Firgulem, Aquem
Baixo Village, Navelim,
Salcete-Goa.
58. Shri Pedro B. Peixoto,
major of age, son of late
Bento Peixoto,
59. Shri Aleixo Peixoto, major
of age, son of late Bento
Peixoto, both residents of
H. No. 333, and also
residing at H. No. 334,
near Aquem Baixo, Village
Panchayat Building,
Firgulem, Aquem Baixo
Village, Navelim, Salcete-
Goa.
60. Sebastiao Colaco, major of
age, father's name not
known, resident of H. No.
331/A and also resident of
H. No.331, near Aquem
Baixo Village Panchayat
Building, Firgulem,
Aquem, Baixo Village,
Navelim, Salcete-Goa.
61. Smt. Melina D'Costa e Vaz,
major of age, wife of Shri
Santan Vaz, resident of H.
No. 314/1, near Aquem
Baixo Village Panchayat
Building, Firgulem,
Aquem, Baixo Village,
Navelim, Salcete-Goa.
62. Smt. Deepa Ulhas Naik,
major of age, wife of Ulhas
P. Naik, resident of H.
No.313/B1, 313/82, 313/D,
near Aquem Baixo Village

- Panchayat Building,
Firgulem, Aquem, Baixo
Village, Navelim, Salcete-
Goa.
63. Filomena Rodrigues e
D'Silva, major of age, wife
of late Jose Piedade D'Silva,
resident of H. No. 314/1,
near Aquem Baixo Village
Panchayat Building,
Firgulem, Aquem, Baixo
Village, Navelim, Salcete-
Goa and also resident of H.
No. 987, Ascona, Vodlem
Bhatta, Benaulim, Salcete-
Goa.
64. Jayashree Shirodkar, major
of age, resident of H. No.
408, near Aquem Baixo,
Village Panchayat Building,
Firgulem, Aquem Baixo
Village, Navelim, Salcete-
Goa.
65. Remza Bi, major of age,
resident of H. No. not
known, Opposite Industrial
Training Institute (ITI)
Firgulem, Aquem Baixo
Village, Navelim, Salcete-
Goa.
66. Industrial Training
Institute (ITI) Firgulem,
Aquem Baixo Village,
Navelim, Salcete-Goa.
67. Public Information Officer
& Assistant Labour
Commissioner, Labour and
Employment Department,
Government of Goa,
"Shram Shakti Bhavan",
2nd Floor, Pato Plaza, EDC
Complex, Panaji-Goa.
68. Village Panchayat of Aquem
Baixo, through its
Secretary, Firgulem,
Aquem Baixo Village,

Navelim, Salcete-Goa. Respondents.

Mr. S. D. Lotlikar, Senior Advocate with Mr. C. Padgaonkar, Advocate for the petitioner.

Ms. S. Mordekar, Additional Government Advocate for the respondent nos.1 and 2.

Mr. B. Rodrigues, Advocate for the respondent nos.4a, 5a, 6a, 7a, 8a, 9a, 11a to 11d,12a, 13a, 14a, 15a, 16a, 17a,18a,19a,20a, 21a and 21b, 22a to c, 23a and b, 24 b and c, 25 a to e, 26a, 27 a to e, 28a, 29 a to c, 31 a & b, 32 a, 33a, 34a and b, 35a, 36a and b, 37a, 38a and b, 42a, 43a, 44a, 45a, 46a, 47a, 48a to c, 49a and b, 50a, 51a and b, 52 a, 53a, 54a, 55a and 61.

Coram:- K. L. WADANE,J.

Reserved on:24th November, 2015.

Pronounced on:5th December, 2015.

JUDGMENT

Heard S. D. Lotlikar, learned Senior Advocate appearing for the petitioner, Ms. S. Mordekar, learned Additional Government Advocate appearing for the respondent nos.1 and 2 and Mr. B. Rodrigues, learned Advocate for appearing the respondent nos. 4a, 5a, 6a, 7a, 8a, 9a, 11a to 11d,12a, 13a, 14a, 15a, 16a, 17a,18a,19a,20a, 21a and 21b, 22a to c, 23a and b, 24 b and c, 25 a to e, 26a, 27 a to e, 28a, 29 a to c, 31 a & b, 32 a, 33a, 34a and b, 35a, 36a and b, 37a, 38a and b, 42a, 43a, 44a, 45a, 46a, 47a, 48a to c, 49a and b, 50a, 51a and b, 52 a, 53a, 54a, 55a and 61.

2. Rule made returnable forthwith.

3. Heard by consent of the learned counsel appearing for the respective parties. Ms. Mordekar, learned Additional Government Advocate waives notice on behalf of the respondent nos.1 to 3 and Mr. B. Rodrigues, learned Advocate waives notice on behalf of the respondent nos. 4a, 5a, 6a, 7a, 8a, 9a, 11a to 11d,12a, 13a, 14a, 15a, 16a, 17a,18a,19a,20a, 21a and 21b, 22a to c, 23a and b, 24 b and c, 25 a to e, 26a, 27 a to e, 28a, 29 a to c, 31 a & b, 32 a, 33a, 34a and b, 35a, 36a and b, 37a, 38a and b, 42a, 43a, 44a, 45a, 46a, 47a, 48a to c, 49a and b, 50a, 51a and b, 52 a, 53a, 54a, 55a and 61.

4. This Writ Petition is filed by the original plaintiff/petitioner seeking to quash and set aside the order dated 31.10.2014 passed by the Adhoc District Judge-I, FTC-I, South Goa, Margao in Civil Suit No. 30/2010 on an application for deletion of the names of the respondents nos. 4 to 68 at Exh. 103.

5. The parties shall be referred to as per their original status before the trial Court.

6. Brief facts of the case may be stated as follows:-

In the year 1964, the Administrator of Goa, Daman and Diu, passed an order and thereby requisitioned the property

belonging to Joaquim Francisco Roque Santana Cota, of Margao, as per the powers under Section 29 of the Defence of India Act, 1962. After requisition, the State of Goa neither paid any compensation to the Joaquim Francisco Roque Santana Cota during his lifetime or his successors-in-interest nor acquired the property as mandated under the law. The suit property was apparently requisitioned for rehabilitation of persons displaced by acquisition of land for establishment of Military Camp at Navelim. In consequence of the requisition of the suit property, the possession and control thereof, has passed on to the defendant no.1/respondent no.1 State of Goa whose interests are represented herein by its Chief Secretary. The petitioner herein filed a suit bearing Special Civil Suit No. 119/1993/A which was subsequently renumbered as Civil Suit No. 30/2010/I for restoration of the suit property. Encroachers were made parties to the suit property.

7. On 31.10.2014, the plaintiff filed an application before Trial Court to delete the names of the respondent nos. 4 to 68 which came to be rejected. Hence, the present petition.

8. I have heard Mr. Lotlikar, learned Senior Counsel appearing for the petitioner, Ms. S. Mordekar, learned Additional Government Advocate for the respondent nos. 1 to 3 and Mr. B. Rodrigues, learned Advocate appearing for the

respondent nos.4a, 5a, 6a, 7a, 8a, 9a, 11a to 11d,12a, 13a, 14a, 15a, 16a, 17a,18a,19a,20a, 21a and 21b, 22a to c, 23a and b, 24 b and c, 25 a to e, 26a, 27 a to e, 28a, 29 a to c, 31 a & b, 32 a, 33a, 34a and b, 35a, 36a and b, 37a, 38a and b, 42a, 43a, 44a, 45a, 46a, 47a, 48a to c, 49a and b, 50a, 51a and b, 52 a, 53a, 54a, 55a and 61.

9. The respondent no. 40 is the union of India. During the course of arguments, Mr. Lotlikar, learned Senior Counsel states that defendant no. 40 is the Union of India and, therefore, it is a necessary party. Therefore, except defendant no. 40, defendant nos. 4 to 39 and 41 to 68 may be deleted.

10. Mr. Lotlikar, learned Senior Counsel has argued that the respondent nos. 4 to 39 and 41 to 68 are the encroachers upon the property in possession of the respondent no.1. According to Mr. Lotlikar, learned Senior Counsel the plaintiff had filed a suit for restoration of the possession of the suit property, therefore it is for the State Government to restore the property. The petitioner wants to delete those defendant no. 4 to 39 and 41 to 68, at his own risk.

11. As against this, Mr. B. Rodrigues, learned counsel appearing for the respondent nos. 44a, 5a, 6a, 7a, 8a, 9a, 11a to 11d,12a, 13a, 14a, 15a, 16a, 17a,18a,19a,20a, 21a and 21b, 22a

to c, 23a and b, 24 b and c, 25 a to e, 26a, 27 a to e, 28a, 29 a to c, 31 a & b, 32 a, 33a, 34a and b, 35a, 36a and b, 37a, 38a and b, 42a, 43a, 44a, 45a, 46a, 47a, 48a to c, 49a and b, 50a, 51 a and b, 52 a, 53a, 54a, 55a and 61. has argued that the defendant nos.4 to 39 and 41 to 68 are put in possession by the defendant no.1/respondent no.1 as they were displaced due to the acquisition of the land for the purpose of establishment of military camp. So according to Mr. Rodrigues, they are rehabilitated in the disputed property by the respondent no.1 and that they are in actual possession of the same. Therefore, for the disposal of the suit their presence is necessary, so they are necessary parties to the suit. In the absence of these defendants, it will not possible to adjudicate the disputes between the parties.

12. Considering the rival contentions of the both the sides, if the plaintiff is running risk by deleting those defendants then one cannot compel the plaintiff to continue the defendant nos. 4 to 39, 41 to 68 as necessary party.

13. According to Mr. Lotlikar, no relief has been claimed by the plaintiff against the defendant nos. 4 to 39, 41 to 68 and therefore, the plaintiff may be permitted to delete them. In support of his submission Mr. Lotlikar, learned Senior Counsel has relied upon the observation of the Judgment in the case of

Ramesh Hirachand Kundanmal Vs. Municipal Corporation of Greater Bombay and others, (1992)2 SCC 524 and held

at paragraph 15 thus:-

“It cannot be said that the main object of the rule is to prevent multiplicity of actions though it may incidentally have that effect. But that appears to be a desirable consequence of the rule rather than its main objective. The person to be joined must be one whose presence is necessary as a party. What makes a person a necessary party is not merely that he has relevant evidence to give on some of the questions involved that would only make him a necessary witness. It is not merely that he has an interest in the correct solution of some question involved and has thought of relevant arguments to advance. The only reason which makes it necessary to make a person a party to an action is that he should be bound by the result of the action and the question to be settled, therefore, must be a question in the action which cannot be effectually and completely settled unless he is a party. The line has been drawn on a wider construction of the rule between the direct interest or the legal interest and commercial

interest. It is, therefore, necessary that person must be directly or legally interested in the action in the answer, i.e., he can say that the litigation may lead to a result which will affect him legally, that is, by curtailing his legal rights. It is difficult to say that the rule contemplates joining as a defendant a person whose only object is to prosecute his own cause of action."

14. I have gone through the observations of the above cited authority and it appears that it is applicable to the facts of the present case. If plaintiff is running risk to delete certain defendants then he can do so at his own risk.

15. In such circumstances, Writ Petition is allowed. Order passed by the Ad-hoc District Judge, South Goa Margao, below Exh.103 is hereby set aside and the petitioner is permitted to delete defendant nos. 4 to 39 and 41 to 68.

Correction carried out
pursuant to order dated
8.12.2015.

16. Rule is made absolute in the aforesaid terms.

17. Petition stands disposed of.

K. L. WADANE, J.