

**IN THE HIGH COURT OF BOMBAY AT GOA**

**WRIT PETITION NO. 780 OF 2014**

1. Mrs. Julie D'Souza,  
widow of Jose Vincente.  
Joao Octaviano de Souza,  
aged 82 years, landlady,
2. Mr. Anthony D'Souza,  
son of late Jose Vincente  
Joao Octaviano de Souza,  
aged 55 years, unmarried,  
Retired,
3. Mrs. Cremona D'Souza,  
wife of George Remedias,  
aged 54 years, married, housewife,
4. Mr. George Remedias,  
son of late Eliterio Remedias,  
aged 60 years, service,
5. Miss Lorna D'Souza,  
daughter of late Jose Vincente  
Joao Octaviano de Souza,  
aged 44 years, unmarried, service.
6. Mr. Jonas D'Souza,

son of late Jose Vincente,  
Joao Octaviano de Souza,  
aged 52 years, unmarried, service,  
All residents of H. No.461,  
Bamonvaddo, Assonora,  
Taluka Bardez, Goa\* .... Petitioners  
(Original defendants nos.5 to 10)

V e r s u s

1. Dr. Caroline D'Souza,  
daughter of John Avelino R. D'Souza,  
aged 82 years, spinster,  
resident of H. No.29, Quitula,  
Aldona, Bardez, Goa.\* .... (Original Plaintiff)

2. Fr. Veenon William S. D'Souza,  
son of late Aquelino C. Lucy Roberto,  
aged 60 years, bachelor,  
presently residing at St. Joseph Church,  
Robert Road, Mumbai\*. (deleted)

3. Mr. Ramesh Rama Maulingkar,  
son of Rama Maulingkar,  
aged 55 years, Maison,  
resident of G. No.953, Cetuslim,  
Moirra, Bardez, Goa.\*

4. Mr. Thomas D'Souza,

son of late Lily D'Souza,  
aged 62 years,unmarried. **(deleted)**

5. Miss Thereza D'Souza  
daughter of late Lily D'Souza,  
aged 65 years, spinster,  
Both residing at Feira-Alta,  
Mapusa, Bardez, Goa.\* **(deleted)**  
**(Amendment carried out as  
per order dated 9.2.2015)**

6. Miss Delfina Lobo,  
spinster, resident of H. No.99,  
Pirazona, Moira, Bardez, Goa.  
(since deceased)
7. Mrs. Ramesh Rama Maulingkar,  
wife of Ramesh R. Maulingkar,  
aged 70 years, married,  
resident of Moira, Bardez, Goa.\*
8. Mr. Rama Rauji Maulingkar,  
son of late Rauji Maulingkar,  
aged 46 years, married, Mason.
9. Mrs. Rama Rauji Maulingkar,  
wife of Rama R. Maulingkar,  
aged 42 years, married, Mason,  
Both resident of Moira,

Bardez, Goa.\*

..... Respondents

(Original defendant nos.1 to 4 & 11 to 14)

Mr. S. Y. Thaly, Advocate for the Petitioners.

Mr. Rama Rivankar, Advocate for the Respondents.

**CORAM: N. M. JAMDAR, J.**

**DATE: 18TH FEBRUARY, 2015.**

**ORAL JUDGMENT:**

Heard Mr. S. Y. Thaly, learned counsel for the petitioner and Mr. Rama Rivankar, learned counsel for the Respondents.

2. By order dated 9 February 2015, the petition was directed to be finally disposed of at the admission stage. Accordingly taken up for final disposal. Rule. Made returnable forthwith. Respondents waive service.

3. The petitioner challenges the order dated 18 June 2014 passed by the Civil Judge, Senior Division, Mapusa, dismissing the application of the petitioner to take the written statement on record.

4. The order passed by the learned Civil Judge is clearly erroneous. On 28 August 2013 inspite of the objection of the respondent-plaintiff, the petitioners were granted time to file written statement on 30 September 2013. On 30 September, 2013, instead of filing the written statement

directly, the petitioner made a formal application to place the written statement on record. The learned civil judge considered this application on merits and rejected the same inspite of the order dated 21 August 2013. A month's time was granted to the petitioners and within that time the petitioner had presented the written statement. The learned counsel for the respondent was not able to show that this was not correct. There was no warrant to refuse to take the written statement on record. In the circumstances, the petition deserves to be allowed and is accordingly allowed. Rule is made absolute in terms of prayer clause "A". No costs.

N. M. JAMDAR, J.

Ap/-