

IN THE HIGH COURT OF BOMBAY AT GOA

FIRST APPEAL NO. 57 of 2016

1. Shri Kalidas Kashinath Raikar,
son of late Kashinath Raikar,
major in age, businessman; and
his wife

2. Smt. Milan Kalidas Raikar,
wife of Kalidas Raikar,
major in age, housewife,

Both residents of house no. 230,
Vaigin Waddo Near Bank of India,
Nachinola, Bardez, Goa.

Or

K. K. Villa Ward No. 2,
Alto Duler, Mapusa Bardez, Goa.

..... Appellants

V e r s u s

Mr. Mahesh Gurudas Revankar,
Son of Gurudas Revankar,
Major of age, resident of H. no. 188/4,
Fountainhas, Ilhas Goa.

..... Respondent

Mr. Arjun F. Naik, Advocate for the Appellants.

Mr. U. R. Timble and Ms. Y. Mandrekar, Advocates for the Respondent.

Coram :- **F. M. REIS, J**

Date : **1st July, 2016**

ORAL JUDGMENT

Heard Shri Arjun Naik, learned Counsel appearing for the Appellants
and Shri Timble, learned Counsel, waives service on behalf of the Respondent.

2. Admit.
3. Heard forthwith with the consent of the learned Counsel. Learned Counsel appearing for the Respondent waives service.
4. Upon hearing the learned Counsel and considering the facts of the present case, the following point for determination arises in the present Appeal :
 - (1) Whether the exparte Decree passed by the learned Trial Judge dated 02.12.2014, stands vitiated for not issuing service on the Applicants in terms of the provisions of the Civil Procedure ?
5. After hearing the matter for some time, the following Order is passed by consent of the parties :

ORDER

- (i) The impugned Judgment and Decree dated 02.12.2014 is hereby quashed and set aside.
- (ii) Special Civil Suit no. 10 of 2014 is restored to the file of the learned Judge subject to the Applicants paying a sum of Rs. 1 lakh to the Respondents within four weeks from today as condition precedent.

(iii) The learned Trial Judge shall proceed to decide the suit afresh after giving an opportunity to the Applicants to file the written statements and to lead evidence of both the parties in accordance with law within six months from the date of the appearance of the parties.

(iv) The parties are directed to appear before the learned Judge on 09.08.2016 at 10.00 a.m..

(v) Appeal stands disposed of accordingly.

F .M. REIS, J.

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