

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 349 OF 2017

SOCU BHIMA HARIJAN ALSO KNOWN AS
TARAMATI BHIMA HARIJAN (DEC) AND 2
ORS.,

... Petitioners

Versus

DATTA DAMODAR KAKULE (DEC) THR.
ITS MANAGING DIRECTOR.,

... Respondent

Mr. Nigel Da Costa Frias, Advocate for the Petitioners.

Coram:- F. M. REIS, J.

Date:- 7th April, 2017

P.C.

Heard Shri Nigel Da Costa Frias, learned Counsel appearing
for the Petitioners.

2. The challenge in the above Petition is to the refusal of leave to amend the written statement to contend that the Petitioners are Mundkars in view of a Consent Decree wherein the Respondent-Plaintiff is a party, passed during the pendency of the Suit. The issue of Mundkar is admittedly under consideration before the learned Mamlatdar. Such issue referred has to be decided by the learned Mamlatdar on its own merits. The parties are at liberty to produce documents in support of their rival contentions, in accordance with law.

3. In such circumstances, when the suit is pending for more than 25 years, the question of granting any leave to amend the pleadings at this stage would not be justified. The learned Judge in exercise of discretion has refused to grant leave to the Petitioners to amend the written statement and I find no jurisdictional error committed by the learned Judge in disposing of such application. The Petition stands disposed of accordingly.

4. Needless to say, the Petitioners are at liberty to challenge the impugned Order in case any adverse Order is passed at the time of the final disposal of the Suit.

5. Petition stands disposed of accordingly.

F. M. REIS, J.

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