

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO. 351 OF 2018**

1. Mr. Harinder Pal Singh Sandhu,
Son of Shri Singh Sandhu,
Major in age, married Indian National,
Occupation business, having its office
at Blue Beach Resort, behind Parab Sawmill,
Ghorbhat, Arpora, Bardez, Goa.
 2. Mr. Bupinnde Singh Kainth,
Son of Shri Kainth,
Major in age, married, Indian National,
Occupation business, having its office
at Blue Beach Resort, behind Parab Sawmill,
Ghorbhat, Arpora, Bardez, Goa Through P.O.A,
Sarvesh N. Chari,
R/o Madhala Wadda, Virnoda,
Pernem-Goa.
- Petitioners.

V e r s u s

1. M. John Amaro Fernandes,
Son of Late Joaquim Mariano Fernandes,
Retired from service, 77 years in age,
Married, Indian National, resident of
House No.185, Diwan Bhati, Arpora,
Bardez-Goa.
2. Mr. David Agustin Fernandes,
Son of Mr. John Amaro Fernandes,
42 years in age, businessman, married,
Indian National, resident of
House No.185, Diwan Bhati, Arpora,
Bardez-Goa.
3. Mrs. Renuka Singad,
Daughter of Mr. Gopal Singad,
37 years in age, housewife, married,
Resident of House No.185, Diwan Bhati,

Arpora, Bardez, Goa.

4. Mr. Domnic Agnelo M. Fernandes,
Son of Mr. John Amaro Fernandes,
35 years in age, service, married,
Indian National, resident of
House No.185, Diwan Bhati, Arpora,
Bardez-Goa.

5. Mrs. Regina Remedia Fernandes,
daughter of Mr. John Amaro Fernandes,
38 years in age, married, housewife,
Indian National, resident of
House No.185, Diwan Bhati, Arpora,
Bardez, Goa.

6. Miss Alexinha Andia Epiphania Fernandes
Daughter of Late Joaquim Marianao Fernandes
65 years of age, business, Indian National,
resident of House No.185, Diwan Bhati,
Arpora, Bardez-Goa.

(since deceased)
survived through
respondents no.1
to 5. Amendment carried out
as per order dtd. 11.6.18)

.... Respondents

Adv. Jatin Ramaiya for the Petitioners.

Adv. Ashwin D. Bhobe for Respondent nos.1-3 & 5

CORAM: C. V. BHADANG, J.
DATE: 11th June, 2018.

Oral Judgment:

Leave granted to show the respondent no.6 as deceased and being survived by other respondents. The necessary correction to be carried out forthwith.

2. Rule, made returnable forthwith. The learned counsel for the respondent nos.1 to 3 and 5 waives service. Heard finally by consent of parties.

3. The petitioners are challenging the order dated 7/12/2017 (Below Exhibit D-32) by which, the application filed by the petitioners/plaintiffs seeking permission to file additional written statement has been dismissed on the ground that on a singular date i.e. 28/4/2016, there was no plea from the petitioners (defendants) to file additional written statement.

4. In this case admittedly the plaint came to be amended. The additional written statement. is sought to be filed by way of a consequential amendment to the plaint. Normally in such a case where there is a consequential amendment to the written statement, (in pursuance of an amendment to the plaint), the same has to be allowed, to the extent it is consequential in nature.

5. On hearing the learned counsel for the parties, I find that the petitioner needs to be granted permission to place the additional written statement on record. The learned counsel for the petitioners states that there are no new facts or pleas introduced by way of additional written statement and the written statement is strictly by way of a consequential amendment

necessitated by the amendment to the plaint. In that view of the matter, the following order is passed:

ORDER:

- (i) The petition is allowed.
- (ii) The impugned order is hereby set aside.
- (iii) The application Exhibit D-32 is allowed as prayed.
- (iv) Rule is made absolute in the aforesaid terms with no order as to costs.

C. V. BHADANG, J.

ap/-