

IN THE HIGH COURT OF BOMBAY AT GOA**SECOND APPEALS NO.26 & 27 OF 2018****SECOND APPEAL NO.26 OF 2018**

- 1 Shri Narcinha R. Kalangutkar,
Son of late Rajaram V.
Kalangutkar,
aged 47 years, married,
occupation-business.
- 2 Smt. Samruddhi N. Kalangutkar,
Wife of Shri Narcinha R.
Kalangutkar,
Aged 47 years, housewife

Both residents of H.No.209/4,
Peddem, Mapusa, Bardez, Goa.

.... Appellants

V/s.

- 1 Smt. Usha Ulhas Kerkar,
Wife of Shri Ulhas Sonu Kerkar,
Aged 60 years, married, service,
Resident of H.No.254/D1
"Sonalay", Xelpem, Mapusa,
Bardez, Goa.
- 2 Smt. Waidehi Ratnakant Kerkar
alias Himali Bhagwant Naik, Wife
of Shri Ratnakant N. Kerkar,
Aged 23 years, housewife,
Resident of H.No.151, Dangui
Colony, Alto Duler, Mapusa Goa.
- 3 Shri Sukhanand Rajaram
Kalangutkar, Son of late Rajaram
V. Kalangutkar, Aged 49 years,
married, Government servant.

- 4 Smt. Sneha Sukhanand
Kalangutkar,
Wife of Shri Sukhanand Rajaram
Kalangutkar, Major of age,
housewife,

Both residents of near
Gothaniacha Chal, Karaswada,
Mapusa, Bardez, Goa.

- 5 Smt. Alzira Flora Souza De Mello,
Widow of late Francisco Joano
Honorato Fernandes, Resident of
Below Peddem, Mapusa, Bardez,
Goa.

.... Respondents

Shri Sudesh Usgaonkar and Ms. R. Pereira, Advocates for the
Appellants.

Shri Parag Rao, Advocate for the Respondents No.1 & 2.

AND
SECOND APPEAL NO.27 OF 2018

- 1 Sukhanand Rajaram
Kalangutkar,
major of age, married, Indian
National and his wife.
- 2 Smt. Sneha Sukhanand
Kalangutkar,
major of age, married, Indian
National,

Both Residents of near
Gothanicha Chal, Karaswada,
Mapusa, Bardez-Goa.

.... Appellants

V/s

- 1 Mrs. Alzira Flora Souza De Mello,
W/o. of late Mr. Francisco Joao
Honorato Fernandes, aged 73

years, retired, original R/o.
Below Peddem, Mapusa, Bardez-
Goa.

Presently Residing In Rua Das
Flores No.15 R/C-DTO, 2855-
199, Carroios, Portugal, Through
her Power of Attorney Smt.

Devayani Keshav Naik, dated
06/03/2006 attested by Notary
N.S. Porob, widow of Keshav
Naik, major of age, housewife,
Resident of Shetye Wada,
Mapusa, Bardez-Goa.

(Appellant name deleted vide
order dated 28/06/2012)

1. Smt. Usha Ulhas Kerkar,
Wife of Mr. Ulhas Sonu Kerkar,
Aged 55 years, married, service,
Resident of H.No.254/D1
"Sonalay", Xelpem, Mapusa,
Bardez, Goa.
- 2 Mrs. Waidehi Ratnakanr Kerkar
alias Himali Bhagwant Naik,
Wife of Mr. Ratnakanr N. Kerkar,
Aged 27 years, married,
housewife, presently Residing at
H.No.151, Dangui Colony, Alto
Duler, Mapusa – Goa, earlier
having resided at H.No.4,
Thorlebag, Keri, Pernem-Goa.
- 3 Shri Rajaram Vithal Kalangutkar,
Since deceased represented by
his LR's
(A) Narsinha R. Kalangutkar,
already being Respondent No.2.

(B) Samruddhi Narsinha
Kalangutkar,

both resident of H.No.209/4,
Peddem, Mapusa, Bardez-Goa.

- 4 Mr. Narsinha R. Kalangutkar,
son of Rajaram V. Kalangutkar,
Aged about 38 years, married,
Mechanic, resident of
H.No.209/4, Peddem, Mapusa,
Bardez-Goa.

.... Respondents

Shri S.D. Lotlikar, Senior Advocate with Ms. A. Naik, Advocate for
the Appellants.

Shri Parag Rao, Advocate for the Respondents No.1 & 2.

Coram:- NUTAN D. SARDESSAI, J.

Date:- 22nd NOVEMBER, 2018

ORAL JUDGMENT :

Heard.

2. Both the appeals are admitted on the following substantial
question of law:

(a) Whether the learned Appellate Court was
in error in not considering the challenge to
the application for rejection of the
amendment to the written statement which
was specifically raised in the cross-objection.

3. Shri Parag Rao, learned Advocate waives service on behalf
of the respondents no.1 & 2.

4. The impugned judgment and order is quashed and set
aside. The matters are remanded to the learned First Appellate

Court to redecide the appeals after deciding the question of amendment. All the contentions of the parties are left open. The learned First Appellate Court is directed to dispose off the matters as expeditiously as possible and in any event by 31/03/2019.

NUTAN D. SARDESSAI, J.

NH