

IN THE HIGH COURT OF BOMBAY AT GOA**FIRST APPEAL NO.319 OF 2007**

- 1 Mr. Bhisso Paica Velip
(since dec.) through LR's.
- 1(a) Shri Ganesh Bhisso Velip,
Aged 37 years and his wife
- 1(b) Smt. Minaxi Ganesh Velip,
Aged 24 years,
Both residents of H.No.35,
Karvem Gaondongarim,
Canacona, Goa.
- 2 Mr. Molu Paica Velip,
Major of age,
Son of late Paica Tollu Velip,
And his wife,
- 3 Mrs. Guna Molu Velip
(since dec.) through LR's
- 3(a) Shri Baba Molu Velip,
Aged 51 years and his wife
- 3(b) Smt. Bagashri Baba Velip,
Aged 45 years,
- 3(c) Shri Narayan Molu Velip,
Aged 45 years and his wife,
- 3(d) Smt. Nayan Narayan Velip,
Aged 37 years
All resident of H.No.35,
Karvem (Velipwada),
Gaodongarim, Canacona 403
702.
- 4 Mr. Puno Paica Velip,
Major of age,

- Son of late Paica Tollu Velip,
- 5 Mr. Tollu Paica Velip
Major of age,
Son of late Paica Tollu Velip,
And his wife,
- 6 Mrs. Taramati Tollu Velip,
Major of age,
And all of them residents of
H.No.35, Carvem,
Gaondongori, Canacona-
Goa.
- 7 Mr. Ganesh Govind Velip,
Major of age,
Son of late Govind Guiru
Velip, and his wife,
- 8 Mrs. Mhalkum Ganesh
Velip, Major of age,
- 9 Mr. Dadu Govinda Velip
Major of age,
Son of late Govind Guiru
Velip, and his wife,
(since dec.) through LR's
- 9(a) Shri Suraj Dadu Velip,
Aged 29 years and his wife
- 9(b) Smt. Vnita Suraj,
Major of age,
- 9(c) Smt. Supriya Dadu Velip,
Major of age, with her
husband,
- 9(d) Shri Vinay Ganesh Velip,
Major of age
All residents of H.No.35,
Karvem Gaondongarim,

Canacona, Goa 403 702.

- 10 Mr. Sudha Dadu Velip,
Major of age,
- 11 Mr. Guiru Govind Velip,
Major of age, son of late
Govind Guiru Velip and his
wife,
- 12 Mrs. Savitri Guiru Velip
(since dec.) through LR's
- 12(a) Shri Ashok Bombo Velip, age
40 years and his wife,
- 12(b) Smt. Ashvini Ashok Velip,
aged 35 years
Both resident of H.No.62,
Avali Khotigao, Canacona.
- 12(c) Shri Sukado Bhiva Gaonkar,
Aged 34 years and his wife
- 12(d) Smt. Sanjana Sukado
Gaonkar,
Aged 28 years
Both resident of H.No.319,
Gulem (molar), Shristal,
Canacona, Goa 403 702.
- 12(e) Shri Sandesh Guiru Velip,
Aged 20 years.
- 12(f) Smt. Sujata Guiru Velip,
Aged 22 years
Both residents of
H.No.46/A, Karvem
(Velipwada), Gaondongarim,
Canacona, Goa.
- 13 Mr. Munno Govind Velip

Major of age
Son of late Govind Guiru
Velip and his wife

14 Mrs. Jayshree Munno Velip,
Major of age, and all of
them residents of H.No.40,
Carvem, Gaondongori,
Canacona Goa.

15 Mr. Rama Janum Velip,
Major of age,
Son of late Janum Bagdo
Velip and his wife

16 Mrs. Lakum Rama Velip
Major of age
And both of them residents
of H.No.5/B,
Carvem,'Gaondongori,
Canacona – Goa.
(since dec.) through LR's

16(a) Shri Kushali Ram Velip
S/o. Shri Ram Janum Velip
Aged 49 years and his wife

16(b) Smt. Navita Kushali Velip,
aged 37 years,

16(c) Shri Krishna Ram Velip,
S/o. Ram Janum Velip, aged
41 years and his wife,

16(d) Smt. Radhika Krishna Velip,
Aged 39 years,

16(e) Shri Dhaku Ram Velip,
S/o. Ram Janum Velip,
Aged 40 years, and his wife,

16(f) Smt. Nirmala Dhaku Velip,

Aged 37 years

- 16(g) Shri Atchut Ram Velip, S/o.
Ram Janum Velip, aged 34
years and his wife,
- 16(h) Smt. Archana Atchut Velip,
aged 27 years,
- 16(i) Smt. Subriya Bagdo Velip,
D/o. Ram Janum Velip, aged
23 years
All residents of H.No.5/B,
Karvem Gaondongarim,
Canacona, Goa 403702.
- 17 Mr. Narayan Rama Velip,
major of age and his wife
- 18 Mrs. Shobavati Narayan
Velip, major of age
- 19 Mr. Diwakar Rama Velip,
major of age, and his wife,
- 20 Mrs. Jayavati Diwakar Velip,
major of age,
- 21 Mr. Tolu Rama Velip and his
wife,
- 22 Mrs. Suhasini Tolu Velip,
major of age, and all of
them residents of
H.No.37/1, Kharvem,
Gaondongori, Canacona-
Goa.
- 23 Mr. Dilip Bab Velip,
Major of age,
Son of late Bombo Bab Velip,
And residents of

H.No.45, Carvem,
Gaondongori, Canacona-
Goa.

- 24 Mr. Rama Guiru Gaonkar
Major of age,
Son of late Guiru Gaonkar
And his wife,
- 25 Mrs. Yessu Rama Gaonkar
Major of age,
And both of them residents
of H.No.36/1, Carvem,
Gaondongori, Canacona-
Goa.
- 26 Mr. Boiro Purso Gaonkar
Major of age,
Son of late Purso Boiro
Gaonkar and his wife
- 27 Mrs. Parvati Boiro Gaonkar
Aged 36 years,
- 28 Mr. Mhalgo Purso Gaonkar
Major of age,
Son of late Purso Boiro
Gaonkar and his wife
- 29 Mrs. Mayavati Mhalgo
Gaonkar,
Major of age,
And both of them residents
of H.No.31, Carvem,
Gaondongori, Canacona-
Goa.
- 30 Mr. Bagdo Vitoba Gaonkar
Major of age,
Son of late Vitoba Bagdo
Gaonkar and his wife,

- 31 Mrs. Malkum Bagdo
Gaonkar,
Major of age,
- 32 Mr. Uday Laxman Gaonkar
Major of age,
Son of late Laxman Bagdo
Gaonkar,
and all of them residents of
H.No.14, Carvem,
Gaondongori, Canacona-
Goa.
- 33 Mr. Babu Janum Gaonkar
Major of age,
Son of late Jaum Murnom
Gaonkar and his wife,
- 34 Mrs. Mhalkum Babu
Gaonkar
Major of age,
- 35 Mr. Purso Janum Gaonkar
Major of age
Son of late Jaum Murnom
Gaonkar, and his wife,
- 36 Mrs. Parvati Purso Gaonkar,
major of age,
- 37 Mr. Sangtu Janum Gaonkar
Major of age,
Son of late Jaum Murnom
Gaonkar, and his wife,
- 38 Mrs. Lakshavati Sangtu
Gaonkar, major of age,
- 39 Mr. Kushali Janum Gaonkar
Major of age,
Son of late Jaum Murnom

- Gaonkar, and his wife,
- 40 Mrs. Anandi Kushali
Gaonkar
Major of age,
And all of them residents of
H.No.20/1, Carvem.
Gaondongori, Canacona-
Goa.
- 41 Mr. Baba Bagdo Gaonkar
Major of age
Son of late Bagdo Gaonkar
And his wife,
- 42 Mrs. Guna Baba Gaonkar
Major of age,
And both of them residents
of H.No.374, Carvem,
Gaondongori, Canacona-
Goa.
- 43 Smt. Rukmini Coiro Gaonkar
Major of age
Widow of Coiro Bicaró
Gaonkar,
- 44 Mr. Mhalgo Coiro Gaonkar,
Major of age and his wife,
- 45 Mrs. Saraswati Coiro
Gaonkar,
Major of age,
- 46 Mr. Dhaklu Coiro Gaonkar,
Major of age and his wife,
(expired).
- 47 Mrs. Dropati Dhaklu
Gaonkar, Major of age
- 48 Mr. Bhisso Coiro Gaonkar,

- Major of age and his wife,
- 49 Mrs. Sunita Bhisso Gaonkar,
major of age,
- 50 Mr. Katu Coiro Gaonkar,
major of age,
- 51 Mrs. Prema Katu Gaonkar
Major of age,
52. Mr. Keshav Coiro Gaonkar,
Major of age,
And all of them residents of
H.No.10, Carvem,
Gaondongori, Canacona-
Goa.
- 53 Mr. Prakash Paica Gaonkar
Major of age,
Son of late Paica Punom
Gaonkar, and his wife,
- 54 Mrs. Premavati Prakash
Gaonkar
Major of age,
And both of them residents
of H.No.6, Carvem,
Gaondongori, Canacona-
Goa.
- 55 Mrs. Laxman Govind
Gaonkar, major of age, and
resident of H.No.8, Carvem,
Gaondongori, Canacona-
Goa.
- 56 Mr. Molu Vithoba Gaonkar
Major of age, son of late
Vithoba Janum Gaonkar and
his wife,

(expired),

- 57 Mrs. Malkum Molu
Gaonkar,
Major of age (since dec.)
through LR's
- 57(a) Shri Vithoba Molu Gaonkar,
aged 39 years and his wife,
- 57(b) Smt. Shalini Vithoba
Gaonkar, aged 37 years,
- 57(c) Shri Laxman Molu Gaonkar,
aged 46 years and his wife,
- 57(d) Smt. Sita Laxman Gaonkar,
aged 41 years All resident of
H.No.1/2, Karvem,
Gaondongarim, Canacona,
Goa 403 702.
- 58 Mr. Puno Govind Gaonkar
Major of age and his wife,
- 59 Mrs. Owai Puno Gaonkar,
major of age,
- 60 Mr. Tolu Govind Gaonkar,
major of age and his wife,
- 61 Mrs. Abole Tolu Gaonkar,
major of age,
- 62 Mr. Datta Govind Gaonkar
Major of age and his wife,
- 63 Mrs. Janke Datta Gaonkar,
Major of age,
- 64 Mr. Ulhas Govind Gaonkar,
Major of age,
and all of them residents of

H.No.20, Carvem,
Gaondongori, Canacona -
Goa.

- 65 Mr. Cuiro Gurco Gaonkar,
major of age, son of late
Gurco Daclu Gaonkar.
- 66 Smt. Salu Daclu Gaonkar,
Major of age age
Widow of Daclu Gurco
Gaonkar and her children
(deceased)
- 67 Mr. Deu Daclu Gaonkar,
major of age and his wife
- 68 Mrs. Premavati Deu
Gaonkar, major of age
- 69 Mr. Jiva Daclu Gaonkar,
major of age and his wife
- 70 Mrs. Rupui Jiva Gaonkar
Major of age,
- 71 Mrs. Tulshi Arjun Gaonkar
Major of age and all of
them residents of
H.No.15/C, Carvem,
Gaondongori, Canacona-
Goa.

.... Appellants

V/s.

- 1 State of Goa,
Represented by its Chief
Secretary, Secretariat,
Panaji-Goa.
- 2 Mr. Rama Gurco Velip,

- major of age, son of late
Gurco Dhaklu Velip,
- 3 Mr. Govind Bodco Gaonkar,
major of age, son of late
Bodco Gaonkar.
- 4 Smt. Guna Govind Gaonkar
Major of age,
Widow of Govind Vitoba
Gaonkar,
- 5 Mrs. Nokum Cuiro Gaonkar,
major of age,
- 6 Mr. Arjun Daclu Gaonkar,
major of age,
- 7 Mr. Tolu Sonum Gaonkar,
Major of age,
And all of them residents of
H.No.15/3, Carvem,
Gaondongori, Canacona-
Goa. Respondents

Shri Nitin Sardessai, Senior Advocate with Shri Vibhav Amonkar, Advocate for the Appellants.

Ms. Sulekha Kamat, Additional Government Advocate for the Respondent No.1.

Coram: - DAMA SESHADRI NAIDU, J.

Date: - 10th December 2019

ORAL JUDGMENT:

The appellants—77 plaintiffs—filed Regular Civil Suit No.194/2002, which was later renumbered as Civil Suit

No.269/2004. They sued the Government for a declaration of title to the suit property, besides the consequential reliefs. Maintaining that the property belonged to the State, the Government contested the case. Then, the trial Court has framed the following issues:

1. Have the plaintiffs proved that they are the owners in possession of the suit property?

2. Have the plaintiffs proved that the defendant's name has been erroneously entered in Form III, Form I & XIV of the suit property and should that be deleted?

2. Eventually, the Trial Court dismissed the suit.

Aggrieved, the plaintiffs have filed this First Appeal.

3. Shri Nitin Sardesai, the learned Senior Counsel for the appellants, has submitted that though the plaintiffs have examined the surveyor, besides filing a copy of the Sale Deed, the trial Court has discarded that piece of evidence and dismissed the suit. According to him, the impugned judgment requires interference.

4. Ms. Sulekha Kamat, the learned Additional Government Advocate, has submitted that the plaintiffs cannot push their burden of proof on to the Government. At any rate, according

to her, the Government has produced sufficient material, besides examining the Inspector of Survey, to establish that the property does belong to the Government. Therefore, she has urged this Court not to interfere with the judgment.

5. Heard Shri Nitin Sardessai, the learned Senior Counsel for the Appellants, and Ms. Sulekha Kamat, the learned Additional Government Advocate.

6. Seen from the record, as the plaintiffs sought a declaration and other consequential reliefs, then the burden lay on the plaintiffs to prove their case. To discharge that burden, out of 71 plaintiffs 2 were examined as PW1 and PW2. Besides, they have also examined the surveyor as PW3. On the Government's part, the Inspector of Survey and Land Records was the sole witness, as DW1.

7. Though the appellants have been claiming under a registered Sale Deed, curiously the Sale Deed recites that the vendor sold half of the total extent of the property. And nowhere in the Sale Deed is it mentioned what that total extent was. Besides, the Sale Deed contains no boundaries, either.

8. Though the appellants have examined the surveyor, his

evidence could not help them. He has not, in specific terms, pointed out that the property the appellants have been claiming under the Sale Deed corresponds to the property physically existing and said to be in the Government's possession.

9. On the other hand, the plaintiffs themselves have admitted that the Government's name stands reflected in Form No.III, I & XIV of the Revenue Registry. Given this admitted fact, the Government enjoys a statutory presumption under Section 114 (e) of Indian Evidence Act: that judicial and official acts have been regularly performed.

10. The Government, as I gather, has consistently maintained that the property the appellants have been claiming ought to be different from the suit property. It is, thus, a question of mistaken identity. More particularly, the Government plea gains strength because the Sale Deed throws no light on either the extent or the nature of the property—leave alone the boundaries and other tell-tale signs of its identity. In this context, the trial Court has observed in para 8 of the judgment:

“8. Evidence of plaintiffs strengthens defendant's contention that land which plaintiffs are claiming is not the same as covered by survey no.247/1 and

251/1 of Gaondongori village. Further, it is difficult to believe that in the year 1962 an area of 4,11,000 sq. mts. was sold only for ₹600/- as mentioned in the sale deed. The non-mentioning of the boundaries in sale deed and also non mentioning of approximate area of land in the plaint and also absence of words like 'vast land' or 'huge land' in the plaint fortifies defendant's contention that the land which plaintiffs are claiming is not covered under survey no.247/1 and 251/1....”

11. Under these circumstances, I see no reason to interfere with the trial Court's judgment. I accordingly dismiss the first appeal.

No order on costs.

DAMA SESHADRI NAIDU, J.

NH