

Andreza

**IN THE HIGH COURT OF BOMBAY AT GOA**  
**WRIT PETITION NO. 344 OF 2021**

|                                                       |                |
|-------------------------------------------------------|----------------|
| 1. PRABHAVATI PARAB                                   | ...PETITIONER  |
| <i>Versus</i>                                         |                |
| 1. COMUNIDADE OF MAPUSA, THR.<br>ITS ATTORNEY AND ANR | ...RESPONDENTS |

**Mr. Sarvadnya D. Patil, Advocate for the Petitioners.**

**CORAM: MANISH PITALE, J**  
**DATED: 11<sup>th</sup> October 2021**

**P.C.**

1. By this Writ Petition, the Petitioner has challenged the Order dated 23.09.2021, whereby on an application moved by the Respondents for placing on record a document, the same has been allowed. While allowing the document to be produced, the District Court has specifically observed that the question as to whether the said document is relevant or not will be decided after proper opportunity is given to the parties to comment upon the same.

2. The learned Counsel appearing for the Petitioner invited attention of this Court to the Judgment and order dated 19.03.2021 passed in Second Appeal No. 107/2011, whereby the Appeal was disposed of by directing the District Court to permit the parties to lead evidence both oral as well as documentary in the context of application for condonation of delay. According to the learned Counsel appearing for the Petitioner, this has to be read with the observation made in paragraph 11 of the said

Judgment and Order concerning the allegation of collusion or fraud made in the facts and circumstances of the present case.

3. According to the learned Counsel for the Petitioner, the document permitted to be placed on record is wholly irrelevant to the question of collusion/fraud while deciding the application for condonation of delay. According to the learned Counsel for the Petitioner, the District Court could not have allowed such irrelevant material to be placed on record.

4. This Court has perused the Writ Petition, the impugned order and the material placed on record. The approach adopted by the District Court appears to be reasonable because it is specifically observed in paragraph 3 as follows :

*“3. It is taken note of that the Hon'ble High Court of Bombay at Goa has held in **Second Appeal no. 107 of 2011 (Comunidade of mapusa vs. Smt. Prabhavati Prabhakar Parob abnd another)** by an Oral Judgment dated 19.3.2021, held that this Court is to permit the parties to lead evidence, both oral as well as documentary. Though respondent no. 1 contends that the document sought to be produced is irrelevant, this will have to be decided only after an opportunity is given to the applicant to produce the document and to show its relevancy. It would not be proper to disallow the applicant to produce the document, as it will deny the applicant an opportunity of showing*

*its relevancy. Accordingly, this application is allowed.”*

5. This Court finds that when the question of document being relevant or irrelevant has been kept open, there can be no cause for grievance as sought to be raised by the Petitioner before this Court. Hence, this Court declines to exercise writ jurisdiction in this matter.

6. The Writ Petition is dismissed.

**MANISH PITALE, J.**

ANDREZA PEREIRA Digitally signed by ANDREZA PEREIRA  
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