

Vinita

IN THE HIGH COURT OF BOMBAY AT GOA.

WRIT PETITION NO. 432 OF 2021

JOAO AGNEL FERNANDES	...Petitioner.
VS	
JOSE ANTONIO DE SOUZA	
(DEC) AND 23 ORS	...Respondents.

Mr. A. Naik, Advocate for the petitioner.

CORAM: G. S. KULKARNI, J.
DATE: 29 NOVEMBER, 2022.

P.C.:

1. This petition is directed against an order dated 5 November 2019 passed by the learned Civil Judge, Junior Division "D" Court Panaji, whereby an application filed by the petitioner/plaintiff under Order VI Rule 17 of the Civil Procedure Code, 1908 praying for amendment of plaint has been partly allowed.

2. The grievance of the petitioner in this petition is in regard to the learned trial Judge not permitting the amendment in terms of what was sought to be added by way of paragraphs 18A and 18B of the amendment application however permitting amendment in terms of paragraphs 18C and 18D of the amendment application. The contention of the petitioner is that there was sufficient foundation to

include the amendment as contained in the said paragraphs hence the petitioner's application ought to have been allowed.

3. I have perused the impugned order as also the amendment application as filed. The learned trial Judge by the impugned order permitting the proposed amendment in terms of paragraphs 18 C and 18 D and rejecting proposed amendment in terms of paragraphs 18 A and 18 B itself is passed in November 2020. There was no stay of the proceedings before the trial Court. In the meantime, the suit has progressed and evidence on behalf of the parties stands closed and Mr. Naik has fairly stated that the suit is now posted for final arguments on behalf of the parties.

4. In this view of the matter, in my opinion, it would be appropriate if the petitioner raises all his contention at the final hearing of the suit. With such liberty, the petition is disposed of.

5. All contentions of the parties on the merits of the proceedings of the suit as pending before the trial Court are expressly kept open. No cost.

G. S. KULKARNI,J.