

*Vinita*

**IN THE HIGH COURT OF BOMBAY AT GOA.**

**WRIT PETITION NO. 590 OF 2019**

DEU CHONDRU DESSAI AND 11  
ORS., ...Petitioners.

VS  
VENU RAM POTTO DESSAI AND 23  
ORS., ...Respondents.

Mr. P. Sawant, Advocate for the petitioners.

Mr. R. G. Ramani, Senior Advocate with Mr. P. Kakodkar, Advocate  
for the respondent nos 22, 23 and 24.

**CORAM: G. S. KULKARNI, J.**  
**DATE: 23 NOVEMBER, 2022.**

**P.C.:**

1. Heard learned Counsel for the parties. All the respondents are served. Mr. Ramani, learned Senior Counsel represents respondent nos. 22, 23 and 24.

2. Petitioners/defendants nos.12 to 23 had moved an application dated 26 February 2018 praying to file additional written statements in view of the fact that the Court had permitted amendment of the plaint and hence to file an additional Written statement was certainly a right which was available to the petitioners. Such application has been rejected by the impugned order dated 4 July 2018 passed by the

learned trial Judge. Said order reads as follows:-

*Perused application, say. heard arguments of Adv.  
For the plaintiffs and other defendants and despite of  
giving various opportunities, the defendant nos. 12 to  
23 have not before this Court to advance arguments  
on the present application and to clarify the same.  
Hence, I pass the following:  
Order  
Application stands dismissed  
sd/-  
CJJD, Quepem  
4/7/18.*

3. Considering the nature of the order passed, petitioners had also filed an application for review of the said order. However, said application came to be rejected by an order dated 13 February 2019 which is also assailed by the petitioners in the present proceedings.

4. At the outset, it is required to be noted that the impugned order dated 4 July 2018 passed by the learned Civil Judge, Junior Division, Quepem is required to be faulted on two grounds. Firstly as to what it intends to say and secondly for the reason that it had not considered the case of either of the parties in the manner as the law would require the Court to follow. Such application which was a substantive application of the petitioners. The reasons which are sought to be given for the second order also cannot be accepted.

5. Thus after having heard learned counsel for the parties and having perused the record, in my opinion, the impugned order 4 July 2018 and subsequent order 13 February 2019 on the review application are required to be set aside. They are accordingly set aside with a further direction to the learned trial Judge to take up the application of the petitioners and pass appropriate order in accordance with law.

6. Parties are directed to appear before the trial Court on 5 December 2022 at 10.00 am. The learned trial Judge shall decide the application of the petitioner within a period of two weeks from the parties appearing before the trial Judge. At this stage, it is stated on behalf of the petitioners that petitioners intended to file additional affidavits. They are at liberty to do so. All contentions in that regard of all parties including permission to file reply to any such affidavit is also required to be made available to the other parties. Additional affidavit to be filed within one week.

7. Petition stands disposed of in the above terms. No cost.

**G. S. KULKARNI,J.**