

Vinita

IN THE HIGH COURT OF BOMBAY AT GOA.

WRIT PETITION NO. 266 OF 2022

OMU ALU GAUNS AND ANRPetitioners.
VS
RAGHU ALU GAUNS (DEC) THR. LRSRespondents.

Mr. G. Agni, Advocate for the petitioners.

Mr. S. Gomes Pereira, Advocate for the respondent nos. 1[a to 1(j)(i)
and 1 j(ii)]

CORAM: G. S. KULKARNI, J.

DATE: 7 DECEMBER 2022.

P.C.:

1. Heard learned counsel for the petitioners and the learned counsel for the respondents.
2. The order impugned in this petition is an order dated 26 April 2022 passed by the learned Civil Judge Junior Division “C” Court Panaji which is passed on an application as filed by the defendant nos.1 and 2 for production of additional documents in Regular Civil Suit No. 8/2011/C. There are three documents which are sought to be produced on record namely:-

*“1. Affidavit cum No Objection cum Declaration
given by the Plaintiff Alu R. Gauns for*

transferring the house tax of the house bearing house No. 233 in the name of Defendant No.1 Mr. Omu Gauns.

2. *Letter dated 05/11/2021 issued by the Village Panchayat Curca, Bambolim & Talaulim to Defendant No. 2 informing him the transfer of House tax of house No.233 at Curca in the name of Defendant no.1.*
3. *House tax receipt dated 05/11/2021 of H. No. 233 at Curca paid by defendant no.1.”*

3. However, except for setting out the details of the documents, there are no averments whatsoever made in the application which were required to be pleaded, as to why such documents could not be produced earlier and/or form part of the pleadings in the suit. When pointed out these infirmities in the said application, the learned counsel for the petitioners has fairly conceded that, in the interest of justice another opportunity be granted to the petitioners to file a proper application in the manner as permissible in law, so as to plead as to how such documents would be relevant and as to why they could not be produced earlier.

4. The learned counsel for the respondents however submits that the impugned order need not be interfered as the application itself was defective as observed by the learned trial Judge in passing the

impugned order.

5. Considering the rival contentions and also after having perused the impugned order and having perused the record, in my opinion, it is in the interest of justice that the petitioners are granted an opportunity to file a fresh application to produce on record such documents by setting out particulars and the reasons as the law would require.

6. Let such an application be filed within three weeks from today. If such an application is filed, the same be decided on its own merits.

7. The learned trial Judge shall decide the said application without being influenced by the impugned order.

8. All contentions of the parties on merits of any such application and the suit are expressly kept open.

9. Disposed of in the above terms. No costs.

G. S. KULKARNI,J.

VINITA VIKAS NAIK Digitally signed by VINITA VIKAS NAIK
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