

Andreza

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.21 OF 2022

SUDIN MANGESH BHAT RANADE AND ANR ... PETITIONERS

Versus

UDAY ANAND SAMBARI AND 4 ORS

... RESPONDENTS

Mr. A. D. Bhobe, Advocate with Ms. S. Shaikh, Advocate for the
Petitioners.

CORAM:- G. S. KULKARNI, J.

DATED :- 22nd September, 2022

P.C

After hearing Mr. Bhobe, learned Counsel for the petitioners, I am not inclined to interfere in the impugned order dated 28.02.2020, passed by the learned Civil Judge, Junior Division, Ponda, whereby the application of the petitioners/defendant nos. 1 and 2, for rejection of the suit has been rejected. It was assured by the petitioners-defendant nos. 1 and 2 that in the cross examination, the plaintiff has admitted that there was a prior litigation/Civil Suit between the parties in regard to a similar issue, as the subject matter of the suit in question, had attained finality, hence the suit be rejected.

2. The learned Trial Judge rightly did not accept such contention. It needs to be observed that the learned Trial Judge

has already framed issue no.6 to the effect as to whether defendant nos. 1 and 2 prove that the plaintiff had deliberately and mischievously suppressed the fact of the earlier litigation between the parties which is as per the evidence that has come on record.

3. In these circumstances, it is open to the petitioners-defendant nos. 1 and 2 to make appropriate plea including to make an application to request the learned Trial Judge to consider issue no. 6 as a preliminary issue as permissible under Order 14 Rule 2 of the Civil Procedure Code (CPC).

4. With these observations, the petition is disposed of. All contentions of the parties on the pending suit are expressly kept open.

G. S. KULKARNI, J.

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