

Andreza

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.214 OF 2023

BRUNO RODRIGUES

... PETITIONER

Versus

FILOMENO VINCENTE GREGORIO

TOMATURGO RODRIGUES AND 7 ORS

... RESPONDENTS

Mr. B. Rodrigues, Advocate for the Petitioner.

Mr. S. M. Walwaikar, Advocate for Respondent no.1.

Mr. D. D. Zaveri, Advocate for the Respondent nos. 6 and 7.

CORAM:- M. S. KARNIK, J.

DATED :- 6th July, 2023

P.C.

Heard learned counsel for the petitioner who was seeking his impleadment as a party-defendant in the suit. The respondent no.1 is the original plaintiff. I have also heard learned counsel for the respondent nos. 6 and 7.

2. The plaintiff is the real brother of the present petitioner. The petitioner was pursuing the cause on behalf of the plaintiff as his power of attorney holder. It is the contention of the petitioner, that the suit property was jointly purchased by the plaintiff and the petitioner. The trial Court was of the opinion that the application for impleadment deserves to be rejected as the petitioner did not produce any material on record to show that he had purchased the property jointly along

with the plaintiff. Now before this court, for the first time, the petitioner has placed certain receipts about having made payments towards the purchase of the suit property. Learned counsel for the plaintiff, on instructions, submitted that the plaintiff has now no objection if the petitioner is impleaded as a party to the suit.

3. In my opinion, and in all fairness to the trial Court, since the new documents which are sought to be relied upon were not before the trial Court and in view of the changed stance of the plaintiff, it would be appropriate if the application for impleadment is heard afresh by granting the petitioner liberty to produce materials relied upon in this petition before the trial Court. The impugned order, therefore, is set aside. The application for impleadment be heard afresh by the trial Court in accordance with law.

4. All contentions of the parties are kept open.

M. S. KARNIK, J.

ANDREZA PEREIRA  Digitally signed by ANDREZA PEREIRA
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