

Suchitra

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.789/2019

1. SMT. PHILOMENA PEGADO
@ MARIA TERESA PHILOMENA
DE ROCHA PEGADO, Widow of
Hipolito Pegado, age 72 years,
house maker,

2. SHRI VICTOR FRANCISCO
DE ROCHA PEGADO, son of
Hipolito Pegado, age 40 years, Self-
employed.

3. SHRI CECIL CLEMENT DE
ROCHA PEGADO, son of Hipolito
Pegado, age 38 years,

All r/o H.No.E-207, Near Suzuki
Showroom, Rua de Ourem, Panaji,
Goa.

(All are represented by POA Holder
Petitioner No.1.)

... PETITIONERS

Versus

1. MR. RICARDO REBELLO, Son
of Mauro Damaso E.X.P. Rebelo,
Major and his wife;

2. MRS. NAZEEN REBELLO,
Major of age,

3. MR. MAURO REBELLO, Son
of Mauro Damaso Rebelo, and his
wife;

4. MRS. BELINDA LOBO E
REBELLO, Major of age,

5. MR. GLEN REBELLO, Son of
Mauro Damaso Rebello, And his
wife;

6. MRS. SUSAN FERNANDES E
REBELLO, Major of age,

All of them residing at H.No.157/A,
Near F.L. Gomes Garden, Campala
Panaji

... RESPONDENTS

Mr Gajendra Usgaonkar, Advocate for the Petitioners.

Mr J.J. Mulgaonkar with Ms Rupa Banaulikar, Advocates for the
Respondents.

CORAM: M. S. SONAK, J.

DATED: 24th March 2023

ORAL JUDGMENT:

1. Heard Mr Usgaonkar for the petitioners and Mr
Mulgaonkar for the respondents.

2. By order dated 08.03.2023 it was clarified that subject to
the constraints of time an endeavour will be made to dispose of
this petition finally at the stage of admission.

3. Accordingly Rule. The Rule is made returnable immediately at the request of and with the consent of the learned counsel for the parties.

4. The petitioners challenge order dated 23.09.2016 by which the Civil Judge Junior Division at Panaji (Rent Controller) has dismissed petitioners' application to produce on record certain rent receipts. The learned Rent Controller has reasoned that there are no pleadings to support these rent receipts and therefore, no leave can be granted to produce the same. Mr Mulgaonkar endorses this reasoning and adds that this petition should not be entertained because the impugned order was made on 23.09.2016 and this petition is instituted only on 24.04.2019. He submits that this petition is barred by laches.

5. The petitioners claim to be the landlords of the suit premises. They have pleaded that the house in which they were living after renting out the suit premises to the respondents was in a dilapidated condition. Therefore, the petitioners had to vacate this dilapidated house, which, in any case, belonged to petitioners' brother in law and shift to rented premises of Dina Braganza and Mario Pinto. The petitioners seek to produce on record the rent receipts received from Dina Braganza and Mario

Pinto. The petitioners have instituted the rent case for eviction of the respondents inter alia on the ground of bonafide requirement.

6. Considering the ground which has been raised by the petitioners in the original petition seeking eviction of the respondents, leave to produce such documents (receipts) should not have been denied for alleged want of pleadings. The evidentiary value of such receipts is a matter which will have to be examined at a later stage. However, no case was made out for denial of leave. If proved, such receipts would perhaps be relevant considering the ground on which eviction is applied for.

7. Insofar as objection based on laches is concerned, it is necessary to note that laches is not mere physical running of time. The respondents have not demonstrated what parallel rights have been created in them on account of the petitioners delaying the institution of this petition. In fact, it is the petitioners, who have suffered on account of this delay.

8. For the above reasons the impugned order dated 23.09.2016 is set aside and the petitioners' applications at Exh.9 and 11 for production of additional documents are allowed. However, issues of evidentiary value of such documents and even

proof of such documents are kept open to be decided by the Rent Controller at appropriate stage.

9. Rule is made absolute in the above terms.

10. There shall be no order for costs.

M. S. SONAK, J.

SUCHETRA NAWANDHAR
SINGDAL
Digitally signed by
SUCHETRA NAWANDHAR
DN: cn=SUCHETRA NAWANDHAR
Date: 2023.03.28
14:26:27 +05'30'