

Santosh

IN THE HIGH COURT OF BOMBAY AT GOA
WRIT PETITIONS NO. 611 OF 2017 & 2050 OF 2021 (F)

Nilkanth S. Kandolkar,
Son of Sakharam Kandolkar, Aged 66
years, married, Resident of **H.No.**
618/18, Industrial Estate, Murmuse,
Tuem, Pernem Goa.
Through POA Mr. Nilesh Kandolkar
Residing at the same address as above. Petitioner.

Versus

1. Shri Luis Francisco Lobo,
2. Shri Antonio Lobo,
Both residents of 1st Floor, St. Anthony's
Building, Feira Alta, Mapusa, Bardez
Goa.403507 Respondents.

Mr Kishan Kavlekar, Advocate for the Petitioner.

**Mr Vilas Thali, with Mr Rajdeep Prabhugaonkar,
Advocate for the Respondents.**

CORAM : M. S. SONAK, J.

DATE : 17th February 2023

ORAL JUDGMENT :-

1. Heard the learned Counsel for the parties. With consent,
both these Petitions are disposed of by a common Judgment and
Order.

2. The learned Counsel for the parties, on instructions from the parties whom they represent, agree that both these Petitions, can be disposed of by making the following order :

(A) The Orders dated 12th July 2012, 13th December 2016 and 13th December 2016 respectively at Exhibits P-1, P-2 and P3, impugned in WP No. 611/2017, passed by the Court of Civil Judge, Junior Division at Pernem in RCS No.1/2010 are maintained and upheld.

(B) The proceedings with regard to the application dated 2nd July 2016 filed by the Respondents herein in Regular Civil Suit No. 1/2010 and registered as CMA No. 18/2016, shall stand closed.

(C) The Trial Court shall not, in any manner, be influenced by or consider the evidence recorded in the contempt proceedings for the purpose of deciding the suit on merits and the suit shall be decided on the basis of the evidence led in the suit and on its own merits.

(D) The order dated 14/11/2019 at Exhibit P-1 impugned in Writ Petition N0.2050/21(F) and passed by the Civil Judge, Jr. Division at Pernem in RCS No. 1/2010 is maintained and upheld.

(E) The Petitioner shall be entitled to lead additional and /or rebuttal evidence, if necessary, pursuant to the amendment carried out by the Defendants to their written statement in terms of the order dated 14/11/2019. However, the parties agree that this additional and/or rebuttal evidence will be restricted only to the amendments carried out by the Defendants to their written statement and that, this liberty will not be used to plug the loopholes, if any, in the evidence already led by the parties.

3. The Writ Petition No.611/2017and Writ Petition No.2050/21(F) are disposed off in the above terms, with no orders as to costs.

4. All concerned to act on an authenticated copy of this Judgment and Order.

M. S. SONAK, J.