

Vinita

**IN THE HIGH COURT OF BOMBAY AT GOA
WRIT PETITION NO. 43 OF 2023.**

ERIC SEQUEIRA (SINCE DEC.) ... Petitioner.
VS
GAUTAM PATEL AND 3 ORS ...Respondents.

Mr. N. Costa Frias and Ms. S. Nishad, Advocates for the Petitioner.
Mr. R. G. Ramani, Senior Advocate with Mr. P. Kakodkar, Advocate
for the Respondent nos.1 and 2.

CORAM: M. S. KARNIK, J
DATED: 9th MARCH 2023

P.C.

1. Heard learned Counsel for the petitioners and learned Senior Counsel for respondent nos.1 and 2.
2. The challenge in this petition is to an order dated 29.3.2022 passed by Ad-hoc Senior Civil Judge, "B" Court, Panaji below Exh.D-58 filed by the plaintiff nos.1(2) and 1(3) for transposing plaintiff nos.1(4) and 1(5) as defendant nos. 4 and 5 in the suit.
3. Upon the death of the original plaintiff, his legal representatives i.e plaintiff nos. 1(1) to 1(5) were brought on record. In the application for transposition of the plaintiff nos.1(4) and 1(5) as defendant nos. 4 and 5, it is contended that plaintiff nos.1(4) and 1(5) are not represented and even the petitioners herein are not in contact with the plaintiff nos.1(4) and 1(5). Plaintiff nos. 1(4) and 1(5) is the daughter and son-in-law of the original plaintiff/petitioner.

4. Mr. Ramani, learned Senior Counsel appearing on behalf of respondents nos.1 and 2 submits that order passed by the trial Court calls for no interference. It is submitted that the defendant nos.1 and 2 have no objection if the plaintiff nos.1(4) and 1(5) continue as such. It is pertinent to note that plaintiff nos.1(4) and 1(5) are brought on record along with plaintiff nos.1(1), 1(2) and 1(3) as legal representatives of the plaintiff. The order by which the legal representatives are brought on record is not under the challenge. It is always open for the petitioners to challenge the impleadment of plaintiff nos.1(4) and 1(5) on grounds available.

5. So far as the present petition is concerned, the trial Court has rejected application D-58 and refused to transpose plaintiff nos. 1(4) and 1(5) as defendants. The suit is proceeding. It is not pointed out as to what prejudice would be caused to the petitioners if plaintiff nos.1(4) and 1(5) continues on record in this capacity. If the plaintiff no.1(4) and 1(5) are not represented the legal consequences will follow.

6. The interest of plaintiff nos.1(1), 1(2) and 1(3) is being represented. If the interest of plaintiff nos.1(4) and 1(5) is not represented, they will suffer consequences as may be provided. So long as the order bringing on record plaintiff nos.4 and 5 stands, there is no reason why the petitioners should be apprehensive of their

continuation as plaintiff nos. 1(4)and 1(5). In case any prejudice is caused at a later stage, it is always open for the petitioner, to resort to appropriate remedy including seeking the relief of transposing the plaintiff no.1(4) and 1(5), as Respondents, if the occasion so arises.

7. I see no reason to interfere with the impugned order subject to what is observed above. Writ Petition stands rejected.

M. S. KARNIK J.

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