

Andreza

**IN THE HIGH COURT OF BOMBAY AT GOA
TRANSFER APPLICATION NO. 01 OF 2023**

Dr. Kunda Jayant Athavale & 9 Ors. ... Applicants
Versus
Vasant Tukaram Prabhu & anr. ... Respondents

Mr. Nikhil Vaze, Advocate with *Mr. P. Vaze, Advocate for the Applicant.*

Mr. J. J. Mulgaonkar, Advocate for the Respondents.

CORAM: M. S. KARNIK, J
DATED: 29th MARCH 2023

P.C.

1. Heard learned Counsel for the Applicant.
2. In terms of the Order dated 21.03.2023 passed by this Court, the Respondents are duly noticed by an Advocate's notice served on the Advocate appearing for the Defendants before the Trial Court as well as the Appellate Court.
3. Pursuant to the notice, learned Counsel appears on behalf of Respondent No.1. It is submitted that the main contest is between the Applicants and the Respondent No.1. The relevant portion of the Order dated 21.03.2023, reads thus :

“ 2. This is an application for transfer of Regular Civil Appeal No.30/2020 preferred by the applicant, to the Court of Adhoc District Judge-I at Panaji-Goa.

3. Against the same Judgment and Decree in the same suit the respondent had preferred Regular Civil Appeal No.37/2021 which was transferred to the Adhoc District Judge-I (FTC-II) at Panaji Goa. The reason for the transfer was that the learned trial Court Judge who had passed the Judgment and Decree, consequent upon his promotion, was allotted the appeals which arose from the very Judgment and Decree that he had passed. In respect of Regular Civil Appeal No.37/2021 filed by the respondent against the very same Judgment and Decree is concerned, the Appeal has already been transferred to the Adhoc District Judge-I (FTC) at Panaji. As, in the meantime, the learned District Judge before whom the applicant's Regular Civil Appeal No.37/2021 was pending, was transferred, the same could not be allotted to the Adhoc District Judge- (FTC) Panaji. The Regular Civil Appeal No.37/2021 and Regular Civil Appeal No.30/2020 are required to be heard by the same Judge as the common Judgment and Decree is under challenge by the plaintiff as well as the defendant.”
4. The Respondent No.1 has no objection to allowing the present application. Accordingly, the application is allowed in terms of prayer clause (a), which reads thus :
- “This Hon'ble Court be pleased to transfer Regular Civil Appeal No. 30/2020 preferred by the Applicants hearing (Dr. Kunda Ahtavle vs Vasant Prabhu and another) to the Court of Ad-Hoc District Judge-1 (FTC-II) at Panaji, Goa.”
5. The learned Principal District Judge may pass formal orders of allotment. Application is disposed of.

M. S. KARNIK, J