

Andreza

IN THE HIGH COURT OF BOMBAY AT GOA
WRIT PETITION NO. 76 OF 2023

Martina Sequeira, Thr. POA Bhaganna ... Petitioners
Naikodi & 3 Ors.

Versus

Augustinho D'Souza & 8 Ors. ... Respondents

Ms. Gauri P. S. Borkar, Advocate for the Petitioners.
Ms. S. Nagvenkar, Advocate for the Respondent Nos. 1 and
2.

CORAM: M. S. KARNIK, J
DATED: 7th JUNE 2023

P.C.

1. Heard learned Counsel for the parties.
2. The challenge in this petition is to an order dated 27.08.2022 refusing to issue fresh summons to the defendant nos. 1 (a) and 1(b). Learned Counsel for the respondents-original plaintiffs fairly submits that the present petition could be allowed in terms of prayer clause (e).
3. It is the grievance of learned Counsel for the respondents-original plaintiffs that the defendants have not been appearing in the matter for contesting the suit. It is submitted by learned Counsel for respondents that let the petitioners undertake to appear before the trial Court on the next date fixed i.e. 13.06.2023 and file written statement within a reasonable period, say within 90 days, in which

case the respondents will have no objection in allowing the petition in terms of prayer clause (e). Responding to this submission made, learned Counsel for the petitioners, on instructions, categorically submitted that the petitioners-original defendants will positively file their appearance before the trial Court on 13.06.2023. The statement is accepted as an undertaking to this Court. Further, it is submitted on instructions that the written statement would be filed by the petitioners-original defendants within a period of 90 days from today as the service of summons is being waived by the petitioners.

4. It is brought to my notice that the present respondent no.8, who is the original plaintiff no. 8, has expired. Learned Counsel for the respondents submits that appropriate application will be made before the trial Court for bringing the legal representatives on record. Parties agree to such a course of action and accordingly the petition is disposed of in terms of what is stated herein above.

5. The impugned order is set aside. The suit is of the year 2016. No doubt, the delay in disposal of the suit was on account of the fact that the petitioners are appearing belatedly. However, considering the suit is of 2016, I have no manner of doubt that the trial Court will hear the suit expeditiously. The trial Court is requested to consider expediting the suit. The parties to cooperate with the trial and will not seek unnecessary adjournment.

6. Nothing survives for consideration in the Civil Application and the same is disposed of. Writ petition disposed of.

M. S. KARNIK, J

ANDREZA PEREIRA  Digitally signed by ANDREZA PEREIRA
Date: 2023.06.07 16:00:34 +05'30'