



IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 75 OF 2025

Mr. Agnelo Joaquim Monteiro
Son of late Pedro L.P. Monteiro
Major in age 67 years of age, married,
businessman, Indian National, R/o. ... PETITIONER
H.No. 236/C Machado Dalem Morod
Caranzalem, Ilhas, Goas

Versus

1. Mr. Jonnathan Pereira
Son of late Joseph F. Pereira
Major in age, businessman, bachelor
2. Mrs. Sonia Jema Pereira
Daughter of late Joseph F Pereira
Major in age, spinster
Both R/o. Arogya Mata, Flat No.10
3rd floor, Marinagar Mahim, Bombay
400 016
Both having alternate r/o. 21.355,
Mirabel Hotel, Opp. Cidade Goa, DonaRESPONDENTS
Paula. Goa

Mr. Terence Vaz with Ms. Sampada Nishikant Poll, Advocate for the Petitioner.

Ms. Ashwini Agni (Through VC) along with Mr. Junaid Shaikh, Advocates for Respondent Nos.1 and 2.

CORAM:- VALMIKI MENEZES, J.

RESERVED ON : 20TH JUNE, 2025

PRONOUNCED ON : 16TH JULY, 2025

ORAL JUDGMENT:

- 1.** Heard learned Counsel for the Petitioner.
- 2.** Rule. Rule made returnable forthwith with the consent of the parties.
- 3.** This is a petition seeking direction to expedite the hearing and disposal of Regular Civil Suit No. 96/2001/A(Old) [Regular Civil Suit No. 120/2015/F(New)], before the Civil Judge Junior Division at Panaji. The ground raised in the

petition is that the trial of the said suit has inordinately been delayed by the Defendants and the suit has been pending for about 24 years.

4. From the record of the Roznama and other proceedings, which include a transfer application before the District Court North Goa, the following facts undisputedly form part of the record:

- i. The Petitioner filed the Regular Civil Suit No. 96/2001/A(Old) [Regular Civil Suit No. 120/2015/F(New)] on 07.09.2001 for recovery of money and other consequential reliefs seeking decree for payment of amount due towards an alleged loan which was advanced by the Petitioner to the Defendants. Subsequently the Defendants filed their Written Statement and Counter claim on 05.03.2002 and the Issues came to be framed on 07.12.2004.

- ii. The Petitioner's examination in chief began on 29.11.2005 and was completed by 09.01.2008. Thereafter his Cross examination commenced from 09.01.2008 which took more than 10 years to complete until 13.03.2019. During this period the Plaintiff has hardly sought any adjournments, however from the Roznama, it appears that the Defendants had adjourned the cross examination on atleast 30 occasions.
- iii. On 14.06.2019, the Defendants filed an Application for amendment of the Written Statement and Counter claim (Exh-D-72), 17 years after it being filed. The Application took almost three years to decide and was ultimately dismissed vide order dated 30.04.2022. During these 3 years the Defendants sought atleast 4 adjournments during hearing of this application. This order dated

30.04.2022 dismissing the amendment application was never challenged before a higher forum.

- iv. During the pendency of the application for amendment the Defendants filed an application dated 16.06.2019 for recall and reopening the Petitioner's evidence (Exh D-74) which also came to be dismissed vide order dated 30.04.2022. The Defendants then filed two review applications dated 19.05.2022 Exhibited as Exhibit D-84 and Exhibit D-85 with respect to orders passed on Exhibit D-72 and Exhibit-74 respectively. The review Application under Exhibit D-84 was dismissed vide order dated 04.10.2022 and the review Application under Exhibit D-85 was dismissed vide order dated 23.11.2022. Here again, there was no challenge to the order dismissing the application for recall of the witness.

- v. The matter was then fixed for defendant's evidence on 23.11.2022 however the examination in chief commenced only on 20.03.2024 and ended on 31.08.2024, after atleast 6 adjournments by the defendants. The Evidence of Defence witness No.2 was fixed on 16.10.2024 which has till date not commenced and has been adjourned on atleast 5 occasions by the defendants till 07.07.2025; the matter is now fixed on 23.07.2025 for recording the deposition of the second witness for the Defence.
- vi. During the course of recording the evidence of the defendant, several applications, including an application for production of additional documents, correction of evidence of the defendant, framing of additional issues etc. which were all dismissed by imposing cost on the defendants.

5. On 09.04.2025 the Defendants filed a Transfer Application CMA No.66/2025 in the Court of the Principal District Judge North Goa, Panaji, alleging bias by the trial Court, against them by imposing costs whenever any application filed by the defendants was dismissed .Whilst this Petition was pending, and pursuant to order dated 25.04.2025 of this Court directing the District Court to dispose of the transfer application before 15.06.2025, the Principal District Court at Panaji, dismissed the transfer application No. CMA 66/2025 vide order dated 05.06.2025 holding that the defendants have not challenged any orders on merits. It also held that the case is old and should be decided expeditiously; Costs were imposed on the defendants due to their conduct. The Transfer has attained finality for want of further challenge.

6. Learned Advocate Mr. Terrance Vaz, appearing for the Petitioner, submits that the petitioner is a senior citizen; the suit is pending for last 24 years and Defence witnesses are yet

to be examined. The Respondents are filing applications intentionally to delay the matter and cause inconvenience to the Petitioner. Mr.Vaz further submitted that the Respondents are adding to the delay by seeking frivolous adjournments and which appears to be a dilatory tactic adopted and he further produced copy of the Roznama in the said suit.

7. Perusal of the Roznama and the various proceedings in the transfer application before the District Court clearly make out a case for directions to the trial Court to dispose of Regular Civil Suit No.96/2001/A(Old) [Regular Civil Suit No. 120/2015/F(New)] in a time bound manner. I have heard Ms. Ashwini Agni along with Mr. Junaid Shaikh who have assured this Court that the evidence of the Defendant would be completed without delay. The facts that can be culled out from the proceedings sheets, clearly point to the dilatory tactics being adopted by the Defendants, including by filing multiple and frivolous review applications. The defence has only one

more witness to examine and there is no cause at this stage to protract the trial of the suit any further. This Court, and the Hon'ble supreme Court has been, from time to time issuing directions to the trial Courts, especially those dealing with matters which are over a decade old, in an expeditious manner, to ensure their disposal.

8. This is a suit which was filed in the year 2001 and has by now completed twenty five years, with the defence witness not having been examined till now. The total number of adjournments sought by the Defendants throughout this period are more than 40 hearings. The conduct of the Defendants is clearly of dilatory nature and justifies directions being given by this Court, after recording the undertaking of the defendants that they would cooperate with the trial Court in expeditious disposal of the suit. Accordingly, the Civil Judge Junior Division at Panaji dealing with Regular Civil Suit No. 96/2001/A(Old) [Regular Civil Suit No. 120/2015/F(New)], is

requested to complete the trial of the suit and dispose of the same preferably by 30.09.2025.

9. Rule is made absolute in terms of the above directions.

VALMIKI MENEZES,J.