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IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 158 OF 2025

VITHAL S. VELGUENKAR AND **... Petitioners**
ANR.

Versus

SHARADA BABURAO
VELGUENKAR AND 8 ORS. **... Respondents**

Mr. Sagar Dhargalkar, Advocate for the Petitioners

Mr. Anirudh B. Salkar (through V.C.), Advocate for Respondent
No. 9.

CORAM : NIVEDITA P. MEHTA, J.

DATED : 3RD SEPTEMBER, 2025.

ORDER:

1. Heard learned Counsel Mr. Sagar Dhargalkar for the Petitioners and learned Counsel Mr. Anirudh Salkar for Respondent No. 9, appearing through Video Conferencing.
2. The Petitioners, who are the original Plaintiffs in Regular Civil Suit No. 131/2011/A pending before the Civil Judge, Senior Division at Margao, have approached this Court challenging the orders dated 13.01.2025 and 05.02.2025 passed by the said Court.
3. The suit was instituted by the Petitioners seeking, inter alia, a declaration that the Sale Deed dated 17.06.2008 executed by Respondent Nos. 1 to 3 in favour of Respondent Nos. 4 and 5,

registered under No. 3396 at pages 50 to 57 of Book I, Volume 3028 dated 26.06.2008, is null and void, along with other ancillary reliefs.

4. It is the case of the Petitioners that they, along with one Krishna Suresh Velguenkar, were allotted Plot No. 8 (being the eastern portion of Chalta No. 5 of P.T. Sheet No. 292, admeasuring 1299 sq. metres) in Inventory Proceedings No. 34 of 1998, and that the said property was erroneously and illegally conveyed by Respondent Nos. 1 to 3 who had no right, title or interest therein to Respondent Nos. 4 and 5.

5. During the pendency of the suit, the Petitioners and Respondent Nos. 4 and 5 amicably settled their disputes, and Consent Terms to that effect were duly executed between the said parties and placed on record.

6. Consequent to the said settlement, the Petitioners moved an application under Order 1 Rule 10(2) of the Code of Civil Procedure seeking deletion of Respondent Nos. 1, 2, 3, 6, 8 and 9 from the array of parties. This application was rejected by the Trial Court by order dated 13.01.2025, primarily on the ground that substantive reliefs were sought against Respondent Nos. 1 to 4 and that no case was made out for deletion under Order I Rule 10(2), as the presence of these parties was considered necessary for effective adjudication.

7. Subsequently, the Petitioners filed a second application seeking deletion of Respondent No. 9 (original Defendant No. 10), invoking Order 1 Rule 10(2) read with Section 151 of the Code of

Civil Procedure. The basis for this application was that Respondent Nos. 3 and 9 had obtained a decree of annulment of their marriage, of which the Petitioners were unaware at the time of filing the suit. Upon becoming aware, the Petitioners sought deletion of Respondent No. 9, claiming that his presence was no longer necessary in view of the annulment.

8. Learned Counsel for Respondent No. 9, Mr. Salkar, has fairly submitted that Respondent No. 9 does not claim any independent right in the subject property and that the declaration sought by the Petitioners pertains exclusively to the shares allotted to them under Inventory Proceedings No. 34 of 1998. Therefore, the deletion of Respondent No. 9 would not prejudice any right, title or interest that he may have claimed through Respondent No. 3.

9. Learned Counsel for the Petitioners has also made a categorical statement that they do not press prayer clause (a) as stated in the Regular Civil Suit No. 131/2011/A.

10. In view of the above facts and circumstances, and particularly taking into consideration:

- a) The Consent Terms executed between the Petitioners and Respondent Nos. 4 and 5;
- b) The submissions of learned Counsel for both parties;
- c) The fact that Respondent No. 9 has no independent right or interest in the subject matter of the suit;

d) And the express statement made on behalf of the Petitioners not pressing prayer clause (a);

11. I am of the considered view that the impugned orders dated 13.01.2025 and 05.02.2025 passed by the Civil Judge, Senior Division, Margao are liable to be quashed and set aside.

12. Accordingly, the petition is allowed. The impugned orders dated 13.01.2025 and 05.02.2025 are hereby quashed and set aside. The application filed by the Petitioners under Order 1, Rule 10(2), read with Section 151 of the CPC, for the deletion of Respondent Nos. 1, 2, 3, 6, 8 and 9 is allowed.

13. There shall be no order as to costs.

NIVEDITA P. MEHTA, J.