



Meena

IN THE HIGH COURT OF BOMBAY AT GOA
MISC.CIVIL APPLICATION NO.287 OF 2024

WENCESLAUS FERNANDES AND ANR ... APPLICANTS
Versus
DIAGO JOAO DSOUZA AND ANR ... RESPONDENTS

Mr. Nigel da Costa Frias with Ms S. Nishad, Advocates for the Applicants.

Ms. Amira Razaq, Advocate for the Respondents. (through V.C.)

CORAM:- VALMIKI MENEZES, J.

DATED :- 25th September, 2025

P.C.:

1. This is an application for condonation of delay of an Appeal challenging an order dated 23.09.2023 passed by the Civil Court.

2. The impugned order dated 23.09.2023 granting a temporary injunction against the Defendants was initially challenged before the District Court with a delay of 3 months and 18 days. The pecuniary value of the Appeal filed before the District Court was Rs.45,00,000/-, which was way beyond the pecuniary jurisdiction of that Court to entertain the appeal. The correct course to be adopted at that stage by the District Court was to return the appeal memo along with the application for condonation of delay for want of pecuniary

jurisdiction.

3. Instead of returning the memo of appeal, the District Court entertained the application for condonation of delay, and on a No Objection granted by the Respondent, condoned the delay and retained the appeal with itself until 16.04.2024, when it dismissed the appeal. Here again, the District Court ought to have returned the memo of appeal for want of pecuniary jurisdiction but instead had chosen to dismiss the appeal.

4. The appeal that has now been filed before this Court has been lodged within three days of the dismissal of the appeal before the District Court on the ground of lack of pecuniary jurisdiction. Almost two years were spent by the parties before the Court, which inherently lacked jurisdiction since the value of the appeal was Rs.45,00,000/-. It is not material as to what was time spent in the District Court for the reasons that the District Court chose to entertain an appeal which had no pecuniary jurisdiction to otherwise address.

5. For this reason, the appeal of 482 days stands condoned. The appeal shall be registered by the Registry and place for admission on 12.11.2025.

6. The application stands disposed of.

VALMIKI MENEZES, J.