



Meena

IN THE HIGH COURT OF BOMBAY AT GOA
WRIT PETITION NO.294 OF 2025

TARVINDER SINGH PANDORI AND ANR ... PETITIONERS
Versus
SURINDER PAL BHATTI AND ANR ... RESPONDENTS

Mr. Vibhav Amonkar, Advocate for the Petitioners.

CORAM:- VALMIKI MENEZES, J.

DATED :- 24th July, 2025

P.C.:

1. Registry to waive office objections and register the matter.

2. The matter was heard.

3. It appears from the averments in paragraph 5 of the application for appointment of a Commissioner that the alterations/ changes to the premises described therein have taken place after the filing of the suit. Even today, the learned Advocate for the Petitioner submits that an additional affidavit has been prepared on behalf of the Petitioner stating the changes that the Respondents /defendants have carried out to the premises, which are, according to the Advocate, also based upon a report prepared by the concerned Panchayat recording this encroachment.

4. If this be the case, the Commissioner sought to be appointed to inspect the flat would be a premature exercise, as none of these things are found included in the plaint. In the impugned order, the Court found that since the suit was for declaration, permanent injunction, consequential reliefs and possession of the suit premises, there was no dispute raised therein regarding alterations/additions in the suit premises, hence it dismissed the application.

5. At this juncture, the learned Advocate for the Petitioner submits that the plaintiff would file an application to amend the plaint to bring on record all these subsequent events in the additional affidavit dated 24.07.2025 sought to be produced before this Court and the facts in paragraph 5 of the earlier application for commission. He submits that this application would be filed before the trial Court within two weeks from today.

6. The impugned order is otherwise passed on the basis that the alterations/additions are not part of the plaint, as held in paragraph 18 of the order. Obviously, no fault could be found in these findings, on the basis of which the application was rejected. However, if an amendment to the plaint is in fact granted on the basis of subsequent events with regard to the alterations and additions to the suit premises, this would not preclude the plaintiff if permissible in law to file a fresh application for the appointment of a Court Commissioner.

7. After considering all these aspects, the learned Advocate for the Petitioner, on instruction, seeks leave to withdraw this petition. Petition is dismissed as withdrawn with the aforesaid observations made on the application intended to be filed by the Petitioner/original Plaintiff.

VALMIKI MENEZES, J.