



IN THE HIGH COURT OF BOMBAY AT GOA
WRIT PETITION NO.374 OF 2025

ANNIE MERGULHAO E KAPUR AND ANR ... APPLICANT

Versus

RAJESH MALVANKAR AND ANR ... RESPONDENTS

Mr. J. J. Mulgaonkar with Ms. S. Parulekar, Advocate for the
Applicant.

Applicant No.1 present in person.

CORAM:- VALMIKI MENEZES, J.

DATED :- 26th September, 2025

ORAL ORDER:

1. This is a petition which impugns an order dated 02.07.2023 passed by the District Court, South Goa, at Margao in Regular Civil Appeal No.14 of 2022/GD-III, allowing an amendment application at Exh.D-34, which is filed. The amendment application seeks to incorporate paragraph Nos. 24a and 24b, which the Respondents claim to be subsequent events that have taken place after the judgment and decree dated 17.03.2023, dismissed the appellants'/ Original plaintiffs' suit.

2. The plaint has been originally drafted claiming an easementary right which was in the form of motorable access of three meters from the house in occupation of the Plaintiffs, till the territory of the suit property, which is under Survey No.64/8 of village Navelim. The suit was dismissed, holding that the Plaintiffs had not proved their claim to the right to motorable access. Regular Civil Appeal No.14 of 2022 came to be filed before the District Court, and during the pendency of the delay, the application for amendment at Exh.334 came to be filed. The amendment sought to be carried out to the plaint state that the Defendants/Petitioners herein have, by using force, removed the bamboo fence existing in the suit property and constructed a laterite compound wall, without any license, creating an additional access at the entry point over the motorable access claimed by the original plaintiffs. The cause, as pleaded in the amendment, relates to a date and time after the passing of the decree by the trial Court i.e. after 17.03.2022 and purely by way of pleading a subsequent event. The cause of action, therefore, on the amendment being allowed is by way of a subsequent event and can relate only to the date stated in pleadings in paragraph No. 24a and 24b, and obviously cannot be related back to the date of the original suit.

3. The main contention raised in this petition to the impugned order, which grants the amendment was that the District Court had

specified that the amendment would not relate back to the date of the suit.

4. In my opinion, this contention cannot be countenanced and the impugned order must be sustained only for the fact that the amendment, if read, obviously relates to an event and cause that has taken place after 17.03.2025 as pleaded in paragraphs 24a and 24b of the draft amendment. The cause would obviously not relate to the date of the original suit and prayer clause (d), which is also allowed to be incorporated must relate to the date when a subsequent event has been pleaded in paragraph Nos. 24a and 24b. What this means obviously is that Petitioners who are Defendants in the suit, would now file a written statement, may raise all pleas open to them including that the cause as pleaded and relief as pleaded in the cause to the subsequent event relating to a time after 17.03.2023, which was actually beyond limitation.

5. Considering these facts, the contention raised in this petition needs to be rejected. The impugned order, even though it does not state that the amendment relates back to the date of the original suit obviously must be read to mean that the cause of action as pleaded in the amendment would relate to a date of a subsequent event that has been taken place after 17.03.2025 which is what was stated in paragraph nos. 24a and 24b of the amended plaint.

6. Consequently, the Writ Petition is dismissed. No costs.

VALMIKI MENEZES, J.