



Meena

IN THE HIGH COURT OF BOMBAY AT GOA
WRIT PETITION NO.50 OF 2025

EGYPCIO DE NORONHA RODRIGUES
(DECEASED THR LRS)

... PETITIONERS

Versus

MARIA CASSIA TEREZA PAIVA ALIAS
CASSIA PAIVA FERNANDES AND 6 ORS

... RESPONDENTS

Mr. R. G. Ramani, Senior Advocate with Mr. Pranav Kakodkar,
Advocate for the Petitioners.

Mr. A. Gomes, Pereira, Advocate for Respondent No.1.

Ms. Y. Mandrekar, Advocate for Respondent Nos.4 and 7.

CORAM:- VALMIKI MENEZES, J.

DATED :- 14th November, 2025

P.C.:

1. The order challenged in this petition is one passed by the Civil Judge Junior Division, F Court at Panaji in RCS No.116/2002/F dismissing the application Exh-D-111 filed by the Petitioner (Defendant No.6 therein). By the impugned order the trial Court has dismissed the application Exh-D-111 filed by the Defendant No.6 seeking to stay a previous suit (RCS No.97/2015) before the same Court on the ground that the second suit (RCS No.116/2002/F) was a

more comprehensive suit between the parties, the only difference is that in the second suit Defendant No.7 who was the purchaser of the suit property was not a party to the first suit, but had derived his title through a Sale Deed executed by the Defendant No.1 in the first suit.

2. Though the trial Court appears to have proceeded on the assumption that the basis for the powers to be exercised under Section 10 are not based on the doctrine of res-judicata contained in Section 11, nevertheless, the trial Court has proceeded on the correct assumption of law that powers under Section 10 enable the Court to stay only subsequent proceeding and not the previous proceeding.

3. In my view, where there is a specific provision in Section 10 of CPC that empowers the Court to stay only a subsequent proceeding, the trial Court has correctly held that no resort would be taken to the inherent powers of Section 151 CPC to stay the previous suit.

4. On this reason, there is no cause for interference with the view taken by the trial Court, since the defendant No.7 is not a party to the first suit, and any decree passed in the first suit would obviously not bind on Defendant No.7 who is not party to the suit, notwithstanding the fact that the Defendant No.7 may have derived title from Defendant No.1 (party to the first suit and the second suit). Hence there is no cause for interference with the impugned order passed on Exh.D-111.

5. The petition is therefore rejected. No costs.

VALMIKI MENEZES, J.