



IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.634 OF 2024

Mr. H. Humkichand Jain, Son of Harakchandjain, Sole proprietor of Diamond Exports, Aged 65 years, business, Indian National, Resident of 161, Mont Blanc, A.K. Marg, Kemes Corner, Mumbai-36, Maharashtra

.... Petitioner

Versus

1. Mrs. Jyoti Prakash Ghode, Wife of late Prakash Ghode, Aged about 70 years, housewife, Indian National.
2. Mrs. Prajyoth Jeetendra Sarmalkar, Daughter of Prakash Ghode And wife of Jeetendra Sarmalkar, Aged 46 years, Indian National.
3. Mr. Jeetendra Sarmalkar, Son Jagannath Sarmalkar, Aged 50 years, Indian National.
4. Mrs. Prathithi Shrikrishna Kamat, Daughter of Prakash Ghode, And wife of Shrikrishna Haridas Kamat, Aged 40 years, Indian National.
5. Mr. Shrikrishna A.K.A .Bhupesh Haridas Kamat, Son of Haridas Kamat Sarmalkar, Aged 44 years, Indian National,
All are residing at House no.305-A, Modsai, Borda, Fatorda, Margao Goa.
6. The Sub-Registrar of Ponda Civil Registration Office, Government of Goa, having Office at First Floor, Rajdeep Galleria, Ponda Goa.

7. State of Goa, Through Chief Secretary,
Secretariat, Porvorim, Bardez, Goa.

.... Respondents

Mr. Preetam Talaulikar, Advocate for the Petitioner.

Mr. C. A. Coutinho, Senior Advocate with Mr. Ivan Coutinho, Advocate for the Respondents.

CORAM: VALMIKI MENEZES, J.

DATED: 10th DECEMBER, 2025.

ORAL JUDGMENT:

1. Rule. The Rule is returnable forthwith. With the consent of the parties, the Petition is disposed of finally.
2. The Petitioner has challenged two Orders passed by the Court of District Judge-II, North Goa at Mercas, sitting at Ponda; the first Order is dated 16.02.2024 by which the Petitioner's application for production of documents through secondary evidence was dismissed, and the second Order passed which is dated 30.07.2024, dismissed the Petitioner's adjournment application.
3. On instructions, learned Advocate for the Petitioner does not press his challenge to the Order dated 16.02.2024; consequently, the Petition, as far as the challenge to the Order dated 16.02.2024 is concerned, shall be considered as withdrawn.

4. The Order of 30.07.2024 is a single word order stating that the application for adjournment is “dismissed” without assigning any reasons. Perusal of the roznama from 16.02.2024, when the application for production of secondary evidence was dismissed, until 30.07.2024 when the adjournment was refused by the impugned Order, reveals that on the dates of hearing i.e. 15.03.2024, 06.04.2024 and 18.06.2024, the Presiding Judge, who was transferred, was not taking up any matters. It was for the first time since 16.02.2024 that the Court took up the matter on 30.07.2024 when the application was filed for adjournment.

5. The reason cited in the application for adjournment was that the Advocate on record had instructions from the Plaintiff that the Plaintiff desires to challenge the Order dated 16.02.2024, but did not have further instructions in the matter and sought time to withdraw from the matter. These are adequate reasons for granting the adjournment, more so since the three previous hearings in the matter were adjourned since there was no Judicial Officer appointed to that Court. The impugned order does not contain any reasons for rejection of the application for adjournment and is, therefore, required to be quashed and set aside. The reasons supplied in the application are justified.

Consequently, Rule is made absolute in the above terms, i.e. the impugned Order dated 30.07.2024 stands quashed and set aside. Considering that the Defendant’s evidence has commenced, the trial Court shall now keep

Defendant's evidence on hold and allow the Plaintiff to complete his evidence. Learned Advocate for the Petitioner submits that he will take not more than three sessions to complete the evidence and shall file his affidavit of evidence by 08.01.2026 with advance copy to be given to the Defendants within two weeks from today.

The Advocates for the respective parties shall assist the Court in disposing of the matter in an expeditious manner, and the District Court shall endeavour to complete the trial and pass Judgment preferably by 31.12.2026.

VALMIKI MENEZES, J.