



Meena

IN THE HIGH COURT OF BOMBAY AT GOA

**FIRST APPEAL NO.51 OF 2025
WITH
CIVIL APPLICATION NO.3108 OF 2025 (F)**

FIRST APPEAL NO.51 OF 2025

ISMAIL D KHALIF

... APPELLANT

Versus

JAISON DIAS AND 26 ORS

... RESPONDENTS

**WITH
CIVIL APPLICATION NO.3108 OF 2025 (F)
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ISMAIL D KHALIF

... APPLICANT

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JAISON DIAS AND 26 ORS

... RESPONDENTS

Mr. Ravi Gawas, Advocate for the Appellant.

Mr. Aurobindo Gomes Pereira, Advocate for the Respondents.

CORAM:- VALMIKI MENEZES, J.

DATED :- 23rd December, 2025

P.C.:

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

2. During the course of hearing the Application seeking leave to appeal and this First Appeal in challenge to the judgment and decree dated 30.06.2022, passed in Civil Suit No.51 of 2027, the provisions of Rule 97 to 105 of Order 21 CPC were brought to the notice of the Appellant. The appeal essentially is in the nature of the objection to

the decree, claiming ownership rights to land under Survey No.82/7, admeasuring 275 square meters of Village Calangute, which is the subject matter of the decree and opposing the decree also on the count that the Appellant was not a party to the original proceedings. There is also a ground raised by the Appellant that he had purchased this property from the original owner, and he claims a right independent of the Plaintiff in the suit.

3. The provisions of Rules 97 to 105 of Order 21 have been specifically incorporated in the Civil Procedure Code by way of an amendment to facilitate a decision in the execution proceedings itself, at the behest of the objector to the decree who claims an independent title. Such a person may, instead of filing the appeal, object to the decree, and such an objection may be heard on its own merits by the Executing Court.

4. Considering this position, the learned Advocate appearing for the Appellant, on instructions from the Appellant, Mr Ismail Khalif, who is present in the Court, seeks to withdraw this appeal to enable him to approach the Executing Court by filing an application to oppose the decree. Consequently, this appeal stands dismissed as withdrawn to enable the Appellant to approach the Executing Court in executing proceedings No.73/2024 in objection to the decree on the ground stated in the memo of the appeal.

5. Considering that the Executing Court is seized of the matter, and is in the process of executing the decree which directs demolition of certain structures which are subject matter of the suit, one of the suit property being land under Survey No.82/7, interim relief granted to the Appellant by order dated 20.11.2024 limited to the structure of the Appellant in Survey No.82/7 shall continue until 15.01.2026. The Executing Court shall thereafter consider the objections and any applications filed by the parties on their own merits. None of the contentions raised before this Court, which may have been recorded in any order, shall be taken into consideration by the Executing Court, which shall dispose of the objections purely on their own merits.

6. Pending applications, if any, also stand disposed of.

VALMIKI MENEZES, J.