



Sonam

**IN THE HIGH COURT OF BOMBAY AT GOA****WRIT PETITION NO. 269 OF 2025**

Comunidade of Pilerne,  
Pilerne Bardez, Goa,  
Through its duly Elected Attorney,  
Mr. Estifano C. D'Mello,  
R/o Moicavaddo, Pilerne,  
Bardez, Goa.

**... Petitioner*****Versus***

1. Cajetan S. Cordeiro,  
Major in age, Indian,  
Having office at Natania 119,  
Next to Dr. Viagas Bungalow,  
Behind PDA Colony,  
Porvorim, Bardez, Goa.
2. Mrs. Ingird Pereira,  
Major of age, Indian,  
R/o W/201, Sacred Heart Town,  
Wanawadi, Pune-411041.
3. Confraria of the Chapel of Our Lady of  
Livramento of Sangolda,  
Bardez, Goa,  
Represented by its attorney,  
Mr. Godwin D'Souza,  
30 years, Indian,  
R/o Sangolda, Bardez, Goa.

**...Respondents**

***Mr. Yogesh Nadkarni with Mr. Nuno Noronha and Mr. Nilay Naik, Advocates for the Petitioner.***

***Mr. J. E. Coelho Pereira, Senior Advocate with Mr. Jeet Volvoikar, Advocate for Respondent No.1.***

**CORAM : VALMIKI MENEZES, J.**  
**DATED : 11<sup>TH</sup> JULY, 2025.**

**ORAL JUDGMENT:**

1. Registry to waive objections and register the matter.
2. Heard learned Advocate for the parties.
3. Rule. Rule is made returnable forthwith; at the request of and with the consent of the learned Advocates for the parties, the matter is finally heard and disposed of. Learned Advocate Mr. Nuno Noronha waives service for the Petitioner and learned Advocate Mr. Jeet Volvoikar waives service for Respondent No. 1.
4. This petition takes exception to an order dated 03.04.2025 passed by the District Judge, North Goa, to the extent that the order directing transfer of Regular Civil Suit No. 231/2011/E from the Court of the Civil Judge Junior Division 'E' Court Mapusa to the Court of Civil Judge Senior Division 'B' Court at Mapusa, to the extent that it refuses to consolidate the trial in

the above mentioned suit with Special Civil Suit No. 64/2021 pending before the same Court; the Petitioner further impugns the direction contained in the impugned order to decide Regular Civil Suit No.231/2011/E within a period of six months.

5. It is the contention of the learned Advocate for the Petitioner that the District Court would have jurisdiction to grant a prayer for the consolidation of the trial of the aforementioned suits whilst exercising its jurisdiction under Section 24 CPC, transferring the suits to one Court. Per contra, Senior Advocate Mr. J. E. Coelho Pereira for the Respondent No.1 submits that the jurisdiction under Section 24 CPC, is to be exercised and restricted only to considering the need to transfer the suit and the District Court would transgress the jurisdiction vested in it under Section 24 CPC by consolidating the trials in the suit. He placed reliance on a Judgment of the single Judge of this Court in ***Gurdeepsingh V/s Gurucharansingh, reported in 2014(3) Mh.L. 935.***

6. The District Court, after examining the subject matter of these two suits, has exercised jurisdiction under Section 24 by concluding that both suits are almost connected because, the suit filed in the year 2021 by the Petitioner challenges a Consent Decree, which is connected to the suit filed by the Respondents in the year 2011. This conclusion, which forms the basis for granting the transfer of the suit of 2021 to the Court

of Civil Judge Senior Division at Mapusa, i.e. the very Court in which the Respondent's suit is pending, has not been assailed by the Respondent, and the order of transfer has attained finality.

7. In ***Gurdeepsingh*** (*supra*), this Court has considered whether the powers under Section 24, CPC would also include the power to consolidate trials in the suits. This Court has considered the submissions of the parties, which are similar to the ones raised herein and are observed as under:

*“8. Upon perusal of the above provision, it is clear that the provision of section 24 is restricted only for transferring the suit/suits from one subordinate Court to the other. It does not enable or authorize the District Judge to make a further order of consolidation of suits for hearing and disposal. Consolidation of suits for hearing and disposal is a matter, in my opinion, which requires adjudication as to whether and why the two or more suits should be consolidated for the purpose of hearing. There cannot be an order of consolidation passed mechanically. If an order of consolidation is made, the parties to the suit are guided in a totally different manner insofar as the conduct of trial of the civil suits is concerned. The documentary as well as oral evidence is also required to be tendered in the Court with a methodology which would subserve the interest of each of the parties to the suit. Therefore, an order of consolidation results into civil consequences. Such an order, therefore, will have to be made by a Court upon hearing the parties and upon applying the settled principles of law in the matter of consolidation of the suits for the purpose of hearing and disposal. For the above reasons, therefore, I think that the Principal District Judge usurped the power or authority under section 24 of Civil Procedure Code in making a direction to try both the suits together. The said part of the order, therefore, will have to be held to be without jurisdiction.*”

*But then the parties ought to be given liberty to take such steps are advised in that behalf. In the result, I make the following order:---*

**ORDER**

*(a) Civil Revision Application No. 25 of 2013 is partly allowed.*

*(b) The order of transfer of proceedings of Regular Civil Suit No. 270 of 2011 is confirmed.*

*(c) The order directing trial of both the suits together, or along with Special Civil Suit No. 40 of 2012 shall stand removed with liberty to the parties to take such steps as are advised.”*

8. As held in **Gurdeepsingh** (supra), clearly, therefore, the District Court exercising jurisdiction under Section 24 CPC does not have the powers to decide an application for the consolidation of suits being transferred to one Court; and in the present, the District Court has rightly refused this prayer. To that extent, no fault can be found with the impugned order. However, whilst transferring the suit of 2021, the District Court has issued a direction to the Civil Court dealing with the suit of the Respondents of the year 2011, to dispose of that suit within six months.

9. Learned Advocate for the Petitioner submits that the Petitioner would apply for the consolidation of the trials of these suits before the Civil Court now dealing with them, considering that the subject matter, as held by the District Court, is common. He submits that such an application would be filed before the Civil Judge Senior Division at Mapusa, dealing with the suit on 18.07.2025, the next date of hearing of

2011 suit. The suit of 2021 having been now listed on 22.09.2025, since the District Court has already concluded on these suits after considering subject matter of two suits that controversy in these suits is common, the Civil Judge Senior Division would obviously have to decide the application, if filed by the Petitioner on its own merits.

10. However, considering that if the Civil Court was infact to hold that the application for consolidation of trials of two suits were to be allowed, there would be serious prejudice caused to the Petitioner who is the Plaintiff in the second suit of the year 2021 where the trial has commenced and the attorney of the Plaintiff is being examined.

11. Similarly, since the Plaintiff / Respondent herein in the suit of 2011 is also under examination in the suit, this would always give rise to a conflicting situation. In the light of these facts, I am of the opinion that the direction that has been given by the District Court to dispose of the suit of 2011, by hearing the same on day to day basis and dispose of the same within six months from the date of the transfer order, would require interference as it would do injustice to both the parties, as the application for consolidation would require to be decided by the Civil Court after hearing both sides.

12. At this stage, learned Senior Advocate Mr. J. E. Coelho Pereira appearing for the Respondent No.1 submits that he would vehemently object to the consolidation of two suits. Such objections may be raised before the Civil Court when the Petitioner's application for consolidation of trials is filed. Needless to state that the Civil Judge dealing with two suits shall decide the application for consolidation of the suits/trials after hearing the objections of the Respondent.

13. For the reasons stated above, the impugned order dated 03.04.2025 is modified and the direction to the Court of Civil Judge Senior Division 'B' Court at Mapusa, to hear Regular Civil Suit No. 231/2011 on day to day basis to dispose of the same within six months stands quashed and set aside. The order of the District Court of transfer of Regular Civil Suit No. 231/2011/E to the Court of Civil Judge Senior Division and rejecting the prayer to consolidate trials does not call for interference.

14. Rule is made absolute in the above terms.

15. Needless to state that the observations made in paragraph No.2 of the impugned Judgment to the effect that the second suit cannot be consolidated since the suit of 2011 is very old and is required to be decided on a day to day basis, shall not be considered by the Trial Court, they being contrary to what is

held in *Gurdeepsingh (Supra)*. The Court of Civil Judge Senior Division shall decide the consolidation application on its own merits without taking into consideration the aforementioned observations.

16. The petition stands disposed of in the above terms and with the above observations.

**VALMIKI MENEZES, J.**