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IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.456 OF 2025

MARZOOK AND CADAR PVT LTD.

A Company incorporated under the
Indian Companies Act, 1956
(Companies Act 2013)

Having its registered office at
Salgaocar Bhavan, Plot No. 15
Altinho, Panaji – Goa 403001

Through its duly Authorized
Representative and Director

Mr. Subramany, Son of late Gopalappa,
62 years of age, having Office at
Salgaocar Bhavan, Altinho,
Panjim – Goa.

... Petitioner.

Versus

1. THE STATE OF GOA

Through the Chief Secretary, Secretariat,
Porvorim – Goa.

2. THE DIRECTOR OF MINES

Director of Mines and Geology,
having its Office at Institute
Menezes Braganza, Panaji – Goa

3. THE COLLECTOR

North Goa District Collectorate,
Collectorate Building,
Panaji, North - Goa.

... Respondents.

Mr. Vibhav Amonkar with Ms. Maria D'Costa, Ms. T.
Mashelkar, Ms. Sonam Dessai, Mr. Ravnak Mayekar and Mr.

Raj Chodankar, Advocates for the Petitioner.

Mr. Ajay Borkar, Additional Government Advocate for the State.

CORAM: VALMIKI MENEZES, J.

DATED: 27th November, 2025

ORAL JUDGMENT:

1. Registry to waive office objections and register the matter.
2. Heard. Rule. Rule made returnable forthwith. With the consent of the parties, petition is disposed of finally.
3. This is a petition challenging an order dated 18.11.2025 rejecting an application at Exhibit D-19 on the file of the Adhoc District Judge-2, Merces in Civil Suit No.10/2024. The application for adjournment was sought on grounds that the Plaintiff was in the process of preparing an application for amendment based on documents and facts which came to the notice of the Plaintiff, during the hearing of the arguments and the application for rejection of the plaint. Though the application for adjournment sets out, what according to the Plaintiff are detailed reasons for granting the adjournment, in substance, this is an application requesting the deferment of the arguments on the Order 7 Rule 11 application until the amendment application at the behest of the Plaintiff, to incorporate new facts into the plaint was filed and, according to the

Plaintiff is required to be considered before the arguments on the application for rejection of plaint are heard.

4. On going through the entries in the Roznama, it appears that the application for rejection of plaint was filed on 19.07.2025 though, the Written Statement of the Defendant came to be filed after condoning delay and taking it on record only on 20.08.2025. Thereafter, since the earlier amendment application had been granted, additional Written Statement came to be filed on 17.10.2025. Though the stages would not be relevant for deciding the application for rejection of plaint, for which the sole consideration is the averments made in the plaint, it would suffice to record that at least six hearings went by during August and October on these stages.

5. The arguments on the application for rejection of plaint, was on 04.11.2025 on which date, the Plaintiff had partly argued the matter and on 14.11.2025, the Plaintiff sought time on an oral application and on 18.11.2025, four days thereafter, sought yet another adjournment which was rejected by the impugned order.

6. Considering that from the time the arguments commenced on 04.11.2025, the rejection of the application for adjournment on 18.11.2025, hardly two weeks had passed and the matter being part heard, it may not have been justified on the part of the Trial Court to reject the adjournment, more so since there are grounds set out therein which have not been referred to at all in the impugned order.

All that the impugned order states is that since an ultimate opportunity was given for the arguments and no arguments were advanced on that date, the Plaintiff's arguments stand closed. The matter is now listed on 01.12.2025 to hear the arguments of the Defendant on the application under Order 7 Rule 11.

7. Considering these facts, I set aside the impugned order. However, considering that the Plaintiff has sought two adjournments on the plea that it would file an application for amendment, costs would have to be borne by the Plaintiff which are quantified at Rs.10,000/- to be deposited in the Registry of the District Court or paid directly to the Defendant Nos. 1 and 2 or to the Advocate of the Defendant Nos. 1 and 2 under receipt. This shall be a condition precedent to allow the Plaintiff to continue arguments on the application for rejection of plaint.

8. The Petitioner/original Plaintiff makes a statement that they would serve an advance copy of an application for amendment of plaint by 28.11.2025 on the Advocate who appears for Defendant Nos. 1 and 2 to enable him to file a reply, if any, by the next date of hearing i.e. 01.12.2025 or any day that the Trial Court may fix for that purpose. The Trial Court is requested to hear such amendment application expeditiously and decide the same, and thereafter proceed to hear the arguments on the application for rejection of plaint. Needless to state, of course, that if the application for amendment is

allowed, the Defendants would be given an opportunity to file an additional Written Statement.

9. Rule is made absolute in the above terms with the aforesaid observations.

VALMIKI MENEZES, J.