



Sonam

IN THE HIGH COURT OF BOMBAY AT GOA
WRIT PETITION NO.100 OF 2026

DANIEL ANTONIO MASCARENHAS

... PETITIONER

Versus

SANTANA MARIA TEREZA FERNANDES @
TEREZINHA FERNANDES AND 3 ORS

... RESPONDENTS

Mr. Parag S. Rao with Mr. Akhil Parrikar, Advocates for the Petitioner.

CORAM:- VALMIKI MENEZES, J.

DATED :- 10th February, 2026

P.C.:

1. Registry to waive office objections and register the matter.
2. The order assailed in this petition rejects an application to set aside the abatement of the suit. This is an Appeal provided under Order 43 Rule 1(k) of the CPC. There being an alternate remedy of Appeal provided against the order, which in this case would lie before the District Court, this petition would not be maintainable.
3. At this stage, the learned Advocate appearing for the Petitioner, on instructions, submits that the petition not being maintainable, the same would be withdrawn and an Appeal would be lodge before the District Court with the application for condoning the delay of seven days which has occurred from the date of filing of this Writ Petition.

4. Accordingly, the Writ Petition stands disposed of as withdrawn. If the Petitioner files an Appeal in terms of order 43 Rule 1(k), before the District Court along with an application for condonation of delay, the District Court shall decide the application for condonation of delay, giving due regard to the fact that the Writ Petition has been filed on basis of the legal advice, before this Court, which was lodged seven days beyond the prescribed period of limitation.

VALMIKI MENEZES, J.