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IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO. 18 OF 2026**

ASVAS HOMES LLP,
a Limited Liability Partnership
incorporated pursuant to Section 12(1)
of the Limited Liability Partnership Act, 2008,
Having its registered office at A701, P. No. 47/9 and
47/10, Survey No. 47-P, Niharika Signature,
Opposite NCC Urban, Gachibowli, Seri Lingampally,
K.V. Rangareddy, Telangana;
Herein represented by its Authorised Signatory,
Satheeshram Eswaramoorthi,
Son of Eswaramoorthi,
Currently 36 years of age,
Resident of 46A, Thammampathi Road,
Thammampathi Pollachi,
Sethumadai, Coimbatore,
Tamil Nadu 642133.

... Petitioners

Versus

1) Tiofilo Sebastiao De Souza
alias Tiofilo De Souza,
Son of Antonio Conceicao Joao De Souza
(alias Antonio De Souza),
Aged 69 years, Resident of De Souza Villa-353,
Behind Rosary Chapel,
NIO Colony, Dona Paula, Goa - 403004.

(2) Dolsten Anthony De Souza,
Son of Tiofilo Sebastiao De Souza,
Aged 38 years,
Resident of De Souza Villa-353,
Behind Rosary Chapel, NIO Colony,
Dona Paula, Goa - 403004.

(3) Brenna Maria Lobo,
Wife of Dolsten Anthony De Souza,
Aged 35 years,
Resident of De Souza Villa-353,
Behind Rosary Chapel,
NIO Colony, Dona Paula,
Goa - 403004.

(4) Doniek Savio De Souza,
Son of Tiofilo Sebastiao De Souza,
Aged 38 years,
Resident of De Souza Villa-353,
Behind Rosary Chapel, NIO Colony,
Dona Paula, Goa - 403004.

(5) Joyner Sleter De Souza,
Wife of Doniek Savio De Souza,
Aged 36 years,
Resident of De Souza Villa-353,
Behind Rosary Chapel, NIO Colony,
Dona Paula, Goa - 403004.

... Respondents

Mr. Dajvip V. Patkar, Advocate for the Petitioner.

Mr. Amay Naik Salatry, Advocate for the Respondents.

CORAM:- VALMIKI MENEZES, J.

DATED :- 12th FEBRUARY, 2026

ORAL JUDGMENT:

1. Heard learned Advocates for the parties.

2. Rule. Rule is made returnable forthwith; at the request of and with the consent of learned Advocates for the parties, the matter is finally heard and disposed of. Learned Advocate Mr. Dajvip Patkar appears on behalf of the Petitioner, learned Advocate Mr. Amay Naik Salatry waives service on behalf of the Respondents.

3. The petition has impugned order dated 05.11.2025, passed by the Civil Judge Senior Division 'A' Court at Mapusa in Regular Civil Suit No.25/2025/A, whereby, despite, the Consent Terms having been filed by the parties to the suit in the Trial Court, the Court has recorded that the parties were present before the Trial Court and has agreed to execute the said Consent Terms and the Court has refused to pass a Decree in term of the Consent Terms and has directed the Plaintiff to lead evidence in the matter.

4. On instructions received, learned Advocate Mr. Salatry, appearing for Respondents, submits that the Respondents have recorded no objection to pass a Decree on the basis of the Consent Terms filed on 05.11.2025 before the Trial Court.

5. The provisions of Order 23 Rule 3 of CPC would be directly applicable to the facts of this case, where the Consent Terms have been filed before the Court and the parties are requesting to draw a Consent Decree in terms of the consent

recorded before the Court. The aforementioned provision mandates the Court to order such an agreement, compromise or satisfaction, which is to be recorded and a Decree to be passed in terms of the agreement of compromise. The provisions provided under Order 23 Rule 3 CPC have been dealt with by the Hon'ble Supreme Court in *M/s Silver Screen Enterprises V/s Devki Nandan Nagpal*¹, wherein it has held at paragraph No. 3 of the Judgment that these provisions are mandatory to the suit. Para 3 of the said judgment is reproduced thereunder:

“3. The compromise in question specifically says that the parties thereto have compromised all their disputes mentioned therein including the two matters referred to earlier. On the basis of that compromise both the appellant and the respondent were required to withdraw all the pending proceedings excepting, the one mentioned earlier. There is no dispute that one of the matters compromised is that relating to the appeal with which we are concerned herein. Once a dispute is validly settled out of Court, it is open to a party to a litigation to move the Court to pass a Decree in accordance with the compromise. Rule 3 of Order XXIII of Code of Civil Procedure provides that where it is provided to the satisfaction of the Court that a suit (which expression includes an appeal) has been settled wholly or in part by any lawful agreement, the Court shall order such agreement, compromise or satisfaction to be recorded and shall pass decree in accordance therewith so far as it relates to that suit.. This is a mandatory provision. It is some-what surprising that the High Court should have itself helpless under the circumstances of the case to do justice between the parties. Clause 12 of the compromise provides that if the respondent does not carry out the terms of the compromise, he shall be held responsible for, all the losses that the appellant may suffer because of its breach. This clause does not preclude the appellant from putting forward the compromise and asking Court to dismiss the appeal

¹ 190 (3) Supreme Court Cases 878

in accordance with its terms. Both the factum the validity of the compromise are not in dispute. Hence the appellate Court was bound to accept the same. That Court acted in accordance with law dismissing the appeal. Hence the High Court was clearly wrong in interfering with the judgment of the appellate court.”

6. This Court in ***Luis Nemesio Menezes & anr V/s Agapito Salvador Bento Menezes*** in Writ Petition No. 278/2025 has also considered the very same provision and followed the view taken by the Supreme Court in ***M/s Silver Screen Enterprises*** (supra). The same is quoted below:

“12. It is clear that the Consent Terms between the parties have, even if they include other properties which they claim, would not bind a third person who is not a party to such terms. There would be no question of calling upon the parties to file their title documents to the properties under the Consent Terms; to that extent, the order of the Trial Court operates contrary to the provisions of Rule 3 Order 3 of CPC.

13. Consequently, the impugned order would have to be quashed and set aside. Having set aside the impugned order, the Trial Court is now directed to proceed to dispose of the suit and pass a Decree in terms of Consent Terms. Considering that the parties seeks to register the Consent Terms before the Sub Registrar, one of the clauses operating as a transfer of property from Plaintiffs to Defendants, the Trial Court is requested to dispose of the said suit preferably within a period of one month from passing of this order.”

7. Consequently, the impugned order directing the Plaintiff to record evidence is contrary to the provisions of Order 23 Rule 3 of CPC and must be quashed and set aside. I have also perused the Consent Terms which are admittedly signed by the

parties to the suit (as recorded by the Trial Court), I have found that the same appeared to be framed not contrary to any provisions of law. Therefore, there is no cause for the Trial Court to refuse to draw a decree in terms of the Consent Terms filed before it.

8. I quash and set aside the impugned order dated 05.11.2025 and direct the Trial Court to pass a Decree in terms of the Consent Terms dated 07.11.2025. The Trial Court shall draw a Decree within a week from an authenticated copy of this order being placed before it.

9. I have taken note of the fact that the Trial Court has adjourned the matter and fixed for evidence on 02.12.2026, almost one year after the previous hearing. That date shall now stand preponed to 20.02.2026.

10. Rule is made absolute in terms of prayer clause (a) of the petition.

11. The petition stands disposed of.

VALMIKI MENEZES, J.