



IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.122 OF 2026

1. Mrs. Shantidevi Ramchandra Halwai, (Since deceased Rep by her legal heirs),

a) Mr. Bharatlal Ramchandra Halwai, S/o. Late. Mr. Ramchandra Halwai, 56 Years of Age, Resident of 2nd floor, flat no. 5 & 6, Housing Board Colony, Opposite MPT Workshop, Baina, Vasco-Da-Gama.

b) Mr. Munnalal Halwai, 55 Years of Age, S/o. Late. Mr. Ramchandra Halwai, R/o. Flat No. 1, 5th floor, F.F Complex, Swathantra Path, Above Bank of Baroda, Vasco-Da-Gama, Goa.

c) Mr. Bijay Prakash Halwai, 52 Years of age, S/o. Late. Mr. Ramchandra Halwai, Resident of 2nd floor, flat no. 5 & 6, Housing Board Colony, Opposite MPT Workshop, Baina, Vasco-Da-Gama.

d) Mrs. Geeta Gyanprakash Gupta, 53 Years of age, D/o Late. Mr. Ramchandra Halwai, Resident of 2nd floor, flat no. 5 & 6, Housing Board Colony, Opposite MPT Workshop, Baina, Vasco-Da-Gama.

.....Petitioners.

Versus

1. M/s. Lotlikar House of Petroleum, A Partnership Firm, Represented by its following partners,

2. Shri. Sudesh Sharadchandra Lotlikar, Major in age, s/o. late Sharadchandra Lotlikar, (Since deceased Rep. Through his Legal heirs at Sr. Nos. 3 & 6)

3. Smt. Sharmila Sudesh Lotlikar, Major in age, w/o Sudesh Lotlikar, Both R/o. H. No. 59, Near Ramnathi Temple, Ramnath, Ponda-Goa.

4. Smt. Priyanka Jawalkar, alias Swapnaja Sharadchandra Lotlikar, Major in Age, W/o. Chandrakant Jawalkar.

5. Shri. Chandrakant Jawalkar, Major in Age, S/o. Rajaram Jawalkar,

Both R/o. Flat No. B-203, Sylvan Heights, Sanewadi, Aundh Pune.

6. Shri. Saurabh Sudesh Lotlikar, Major in Age, S/o. Sudesh Lotlikar, R/o. H. No. 59, Near Ramnathi Temple, Ponda Goa.
Power of Attorney holder of Defendant no. 4 & 5.

7. Adv. Shrikant Nayak, Major in Age, Advocate, Having office at S-,

Ramnathkar Apartments, Upper
Bazaar, Ponda-Goa.

...Respondents.

Mr. Nigel Da Costa Frias, Advocate with Mr. Savio Misquita, Advocate for the Petitioner.

Mr. Surendra Desai, Senior Advocate with Ms. Riddhi Azgaonkar, Advocate for the Respondents.

CORAM: VALMIKI MENEZES, J.

DATED: 17th FEBRUARY, 2026.

ORAL JUDGMENT:

1. Registry to waive office objections and register the matter.
2. Service on Respondents No.1 to 6 is complete. None appears when called out.
3. Rule. Rule is made returnable forthwith with the consent of learned Counsel for the parties.
4. This Petition assails an Order of 01.07.2025 passed by the Civil Judge Senior Division (Commercial) Court at Ponda in Commercial Suit No.3/2001/A. The impugned Order dismisses an application at Exhibit D-141 on the record of the trial Court, which is an application for seeking

leave to produce additional documents in terms of Rule 5 of Order 11 CPC as applicable to the procedure contemplated under the Commercial Courts Act, 2015.

5. On a perusal of the plaint, there are averments contained therein and refers to conversations between the Plaintiff and Defendant No.7, which were recorded on CDs. In the plaint, it is the case of the Plaintiff that eight of such CDs were given to the Police, during investigation conducted on a complaint against Defendant No.7 and a forensic report with regard to these CDs was also obtained and forms part of a chargesheet which was filed against Defendant No.7 and is pending trial.

6. It is the Petitioner's case that, though averments referring to the four documents, now sought to be produced in the application at Exhibit D-141, have been made today, the 4 documents referred to were inadvertently not relied upon in the List of Documents appended to the plaint nor were they produced in the plaint. The application at Exhibit D-141 has been filed in terms of Rule 5 of Order 11 applicable to the Commercial Courts Act, to justify and establish reasonable cause for their non-production and non-disclosure at the time of filing the plaint.

7. On going through the impugned Order, the only reason set out for rejection of the application is that a transcript of the voice recording has not been produced along with the 3 CDs relied upon. There are no reasons set out in the Order for rejecting the application qua the leave to produce the forensic report which is the fourth document relied upon.

8. The provisions of Rule 5 of Order 11 as applicable to Commercial Courts prohibits the Plaintiff from producing a document which is in his power or possession or custody, which was not disclosed at the time of filing the plaint, unless the Plaintiff seeks leave of the Court, which shall be granted only upon the Plaintiff establishing reasonable cause for non-disclosure of the document along with the plaint. An application to that effect was filed by the Plaintiff at Exhibit D-141.

9. However, instead of considering whether the Plaintiff has established reasonable cause as required by Rule 5 of Order 11, whilst passing the impugned Order, the trial Court has proceeded to reject the application on a ground which is totally extraneous to the consideration as required to be shown under Rule 5 of Order 11, i.e. for want of filing a transcript of the voice recording. This, as one sees from Rule 5 of Order 11, is not at all a requirement and cannot be a ground for rejecting the

application. The transcript of a voice recording may at most assist the Court in considering the relevance of the transcript, but cannot be a ground for rejecting the application, as the sole ground can be found in Rule 5.

10. In this view of the matter, the impugned Order dated 01.07.2025 has obviously been passed without considering the requirements of Rule 5 and is therefore required to be quashed and set aside.

11. For the reasons stated above, the impugned Order dated 01.07.2025 is quashed and set aside, and the application at Exhibit D-141 is remanded back to the Commercial Court at Ponda, which shall now hear the parties afresh and consider the application under Rule 5 of Order 11 CPC as applicable to the Commercial Courts, by applying the considerations in aforementioned Rule and decide the application on its own merits.

The next date set down by the Commercial Court is 10.03.2026, on which date or on any date convenient to the Commercial Court, Exhibit D-141, shall be heard and disposed of afresh, on its own merits.

12. Rule is made absolute in terms of the prayer clause (a) and the observations made above. No costs.

VALMIKI MENEZES, J.