



Sonam

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 139 OF 2026

WITH

APPEAL FROM ORDER NO. 4 OF 2026

WITH

MISC. CIVIL APPLICATION NO. 103 OF 2026

IN

APPEAL FROM ORDER NO. 4 OF 2026

WITH

CIVIL APPLICATION NO. 11 OF 2026

IN

APPEAL FROM ORDER NO. 4 OF 2026

Mrs. Maria Idalina Dias,
aged about 62 years,
R/o BF-2, Chaitanya Residency,
St. Agostinho, Santa Cruz.
Ilhas, Goa and presently
residing 59, Pointing Street,
Swindon, Wiltshire, SN12BW,
United Kingdom.

... Petitioner

Versus

1. Mr. Silas D'Souza,
Aged about 61 years,
House No. 187/3, Oxel, Aradi,
Siolim, Bardez, Goa.
2. The Civil Registrar cum
Sub Registrar and
Special Notary (Ex Officio),
Government of Goa,
2nd floor, Government Complex,

Pemem, Goa. 403512.

3. The State Registrar cum
Head of Notary Services,
Registration Department,
Government of Goa,
7th Floor, Shramshakti Bhavan,
Panaji, Goa, 403001.
4. The District Registrar,
North Goa District,
Government of Goa,
Registration Department,
Government of Goa,
7th Floor, Shramshakti Bhavan,
Panaji, Goa, 403001.
5. The State of Goa,
Through the Chief Secretary,
Office of the Chief Secretary,
Secretariat, Alto Porvorim,
Bardez, Goa, 403521.

... Respondents

Mr. Ryan Menezes with Ms. Stephanie Alvares, Advocates for the Petitioner in WP No. 139/2026, for the Applicant in MCA No. 103/2026 and CA No. 11/2026 and for the Appellant in AO No. 4/2026.

Mr. Shivdatt P. Munj, Additional Government Advocate for the State in WP No. 139/2026.

Mr. Tukaram Gawas, Additional Government Advocate for Respondent Nos. 2 to 5 in MCA No. 103/2026, AO No. 4/2026 and CA No.11/2026.

Mr. Kapil Kerkar (through V.C.), Advocate for Respondent No. 1 in WP No. 139/2026, AO No. 4/2026, MCA No. 103/2026 and CA No. 11/2026.

CORAM:- VALMIKI MENEZES, J.

DATED :- 23rd FEBRUARY, 2026

ORAL JUDGMENT:

1. Registry to waive office objections and register the matters.
2. Heard learned Advocates for the parties.
3. 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 Additional Government Advocate Mr. Shivdatt P. Munj waives service for the State in MCA No. 103/2026 and for Respondent Nos. 2 to 4 in WP No. 139/2026, learned Additional Government Advocate Mr. Tukaram Gawas waives service for Respondent Nos. 4 and 5 and learned Advocate Mr. Kapil Kerkar (through V.C.), waives service for Respondent No. 1.
4. This petition impugns order dated 06.12.2024 passed by the District Judge-2 at Mapusa in Civil Suit No. 18/2022, whereby the Court has exercised powers under Order 1 Rule 10(2) CPC and deleted Respondent Nos. 2 to 5 (Defendant Nos.

2 to 5) in the suit. Consequently, upon deletion of these Defendants, the Trial Court returned the Plaint and directed the Plaintiff to present the same before the appropriate Court to which a suit would lie.

5. In the present case, none of the Defendants have raised this objection, and in fact Defendant No. 2 had even filed a Written Statement in the suit. Further, in the same suit, on an earlier occasion, the Plaintiffs were directed to issue notice under Section 80 of the CPC to Respondent Nos. 2 to 5, after the Court had refused to waive notice under Section 80 CPC on an application filed by the Plaintiffs.

6. There is no doubt that the Court always has powers under Sub Rule 2, Rule 10 of Order 1 CPC to add or delete parties in a suit. However, these powers have to be exercised, keeping in mind two principles; the first being that the Plaintiff is a *dominus litis* of the suit, and the parties who are arrayed in the suit are those that the Plaintiff finds necessary or proper for the effective adjudication of the dispute in the suit. The second principle would be that if there is a cause of action pleaded against the parties in the suit, there would no question of the Trial Court exercising its powers under Sub Rule 2 of Rule 10 of Order 1 CPC.

7. In the present case, the suit has been filed based upon specific averments made in the plaint that Defendant No. 1 has played fraud on Defendant No. 2 (Civil Registrar) by making a false statement that the Father of Defendant No. 2 was the only heir to the estate of deceased Ms Maria Archangela Dias and Mr. Antonio Joao D'Souza.

8. This is the whole foundation for the suit, on the basis of which a declaration was sought that the Deed of Succession recorded by Defendant No. 2 is based on falsity. The consequential relief, that has been sought is directly against Defendant No. 2, seeking a direction to Defendant No. 2 to cancel/delete the Deed of Succession recorded in the Books of Defendant No. 2. As one can see from the pleadings, there is not only a direct relief sought against Defendant No.2 but the foundation for such relief is pleaded as a specific cause of action in the plaint. Under these circumstances therefore, there could be no manner in which Defendant No. 2 could be held not to be a necessary party to the suit. The Trial Court, in its impugned order, has failed to consider this factual position. In fact, the Trial Court at paras 9 to 11 of its order has held that for a person to be a made party in the suit, there must be a cause of action against him. If this be so, there is certainly a cause of action specifically pleaded against Defendant No. 2 and a relief sought for cancellation of the Deed of Succession.

9. In these circumstances, therefore, the impugned order dated 06.12.2024 cannot be sustained and must be quashed and set aside. Consequently, Rule is made absolute in terms of prayer clause (a) of the petition.

10. Having quashed and set aside the impugned order dated 06.12.2024, obviously, therefore, the plaint could not be returned for presenting before the appropriate Court, and the suit would have to be heard and disposed of by the District Court, which is an appropriate Court in terms of provisions of the Civil Courts Act. As a consequence, therefore, the second impugned order dated 06.12.2024 passed in Appeal from Order No. 04/2026 would also have to be quashed and set aside. In these circumstances, the Appeal from Order No. 04/2026 is allowed and impugned order dated 06.12.2024 directing return of the plaint and presenting the same before the appropriate Court stands quashed and set aside.

11. As a consequent of passing of these orders, Civil Suit No. 18/2022 stands restored to the file of District Court-2, Mapusa. The Civil Court shall proceed to dispose of the suit in accordance with the law. The Trial Court shall now issue notices to the Plaintiffs and Defendants in the suit, making notice returnable on such date as is convenient to the Trial Court.

12. In view of the orders passed above, pending applications, if any, also stand disposed of.

VALMIKI MENEZES, J.