



Andreza

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 373 OF 2025

Nazario Sebastiao Pinto

...Applicant

Versus

Tulxi Antu Naique & 29 Ors.

...Respondents

Mr. J. J. Mulgaonkar, Advocate with *Ms. Shweta Parulekar,*
Advocate for the Applicant.

Mr. Gaurish Agni, Advocate with *Mr. Kishan Kavlekar,*
Advocates for the Respondent Nos. 1 and 2.

CORAM DR. NEELA GOKHALE, J.

DATED: 17th MARCH 2026

PC:-

1. By way of this Petition, the Petitioner seeks to set aside Order dated 26.06.2025 passed by the learned Civil Judge, Senior Division at Quepem, in Regular Civil Suit No. 2014/14/A. Vide the Order impugned, the Civil Court has refused permission to the Petitioner to amend the written statement as per his amendment application dated 05.12.2024.

2. Heard Mr. Mulgaonkar, learned Counsel appearing for the Petitioner and Mr. Gaurish Agni, learned Counsel appearing for the Respondent no. 1. None appears for the rest of the Respondents.

However, Mr. Mulgaonkar says that the rest of the Respondents are proforma parties insofar as present Writ Petition is concerned.

3. By way of an amendment application, the Petitioner sought to amend his written statement to a very limited extent i.e. he is desirous of adding one line that the Plaintiff in the Civil Suit, namely, the Respondent no.1 herein, had not given the Power of Attorney to Mr. Sagar Naik, to institute the Suit or sign the verification of the pleadings in the said plaint.

4. Mr. Mulgaonkar, has drawn my attention to the deposition of the Plaintiff witness no. 2 i.e. Smt. Tulxi Naik. In the cross-examination, the said witness has stated that she did not execute any Power of Attorney in favour of Sagar Naik to file the suit, appear in the Court and to depose before the Court. However, she further goes on to identify her thumb impression on the photograph affixed on the Power of Attorney as well as appearing on the other pages of the Power of Attorney. It appears that there is some dispute regarding the Plaintiff in instituting the Suit through her Power of Attorney. Considering that there is no averment in the written statement regarding the defence of the Petitioner (original

Defendant) contesting the Suit on the ground that the Plaintiff has not authorized her so-called constituted Attorney to institute the Suit and sign the verification on her behalf, it would serve the interest of justice if the Petitioner is permitted to amend his written statements, only to the extent of making the averment that the Plaintiff has not authorized her purported constituted Attorney one Mr. Sagar Naik to file the Suit, appear in the Court or depose before the Court on her behalf. The said amendment will not alter the structure of the defense taken by the Petitioner, in any case.

5. Hence, I pass the following Order :

ORDER

- (i) The Petition is allowed.
- (ii) The Order dated 26.06.2015 passed by the learned Civil Judge, Senior Division at Quepem, in Regular Civil Suit No. 2014/14/A is quashed and set aside.

- (iii) The Defendant is permitted to amend his written statement only to the limited extent of adding an averment that the Plaintiff has not permitted the alleged constituted Attorney Mr. Sagar Naik, to file or appear in the suit on her behalf.

6. The Petition is accordingly disposed off.

DR. NEELA GOKHALE, J.