



IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.93 OF 2026

H. Humkichand Jain, Son of
Harakchand Jain, Sole proprietor
of Diamond Exports, Aged 72
years, business, Indian National,
Resident of 161, Mont Blanc, A.K.
Marg, Kemps Corner, Mumbai-36,
Maharashtra

.....Petitioner.

Versus

1. Jyoti Prakash Ghode, Wife of
late Prakash Ghode, Aged about
70 years, housewife, Indian
National.

(since deceased represented by
her legal representative
Respondents No. 2 to 5)

2. Prajyoth Jeetendra Sarmalkar,
Daughter of Prakash Ghode And
wife of Jeetendra Sarmalkar,
Aged 46 years, Indian National.

3. Jeetendra Sarmalkar, Son
Jagannath Sarmalkar, aged 50
years, Indian National

4. Prachit Shrikrishna Kamat,
Daughter of Prakash Ghode,
And wife of Shrikrishna Haridas
Kamat, aged 40 years, Indian
National

5. Shrikrishna A.K.A. Bhupesh
Haridas Kamat, Son of Haridas
Kamat Sarmalkar, Aged 44
years, Indian National,

All are residing at House
no.305-A, Modsai, Borda,
Fatorda, Margao Goa.

6. The Sub-Registrar of Ponda
Civil Registration Office,
Government of Goa, having
Office at, First Floor, Rajdeep
Galleria, Ponda Goa.

7. State of Goa, Through Chief
Secretary, Secretariat,
Porvorim, Bardez, Goa.

... Respondents.

Mr. Preetam Talaulikar, Advocate with Ms. Sara Desai, Advocate for
Petitioners.

Mr. C. A. Coutinho, Senior Advocate with Mr. Makarand Dessai,
Advocate for the Respondents.

CORAM: VALMIKI MENEZES, J.

DATED: 9th FEBRUARY, 2026.

ORAL JUDGMENT:

1. Registry to waive office objections and register the matter.

2. Rule. Rule is made returnable forthwith with the consent of learned Advocates for the parties and the matter is finally heard and disposed of.
3. The Order impugned dated 08.01.2026 passed by the District Court is otherwise not an Order that calls for any interference, considering the facts which were before the Court on the date of its passing.
4. It is only on the basis of facts stated in the additional affidavit filed by the Petitioner before this Court, though disputed by the Respondent, that some indulgence be shown and the impugned Order is set aside, only to give the Petitioner an opportunity to appear before the Court on the next date of hearing and complete his examination-in-chief and the cross-examination.
5. This Court, by its Order dated 10.07.2025 had quashed and set aside the earlier Order dated 30.07.2024 closing the Plaintiff's evidence. This Court had directed the Plaintiff/Petitioner to present himself before the Court on 08.01.2026 and to complete his evidence. It appears that on 08.01.2026, the Advocate for the Plaintiff presented an application for amendment which was allowed on the same date and in respect of the Plaintiff stepping into the witness box, adjournment was sought, contrary to the directions of this Court in Order of 10.12.2025. On this basis alone,

the trial Court was fully justified in rejecting the amendment application as no reason had been spelt out in the application for any adjournment.

6. It is now submitted before this Court, on the basis of an additional affidavit, the contents of which are disputed by the Respondent that the Advocate then appearing for the Plaintiff had not informed him of this Court's Order dated 10.12.2025 within time and the Plaintiff was informed about the same only on 08.01.2026; it is the Plaintiff's averment to the application that considering that he is 72 years of age he could not make adequate arrangement to travel to Goa along with some person to accompany him, considering that he had earlier undergone a bypass surgery and required assistance. These facts have not been stated in the application before the trial Court. It also appears from the record that the Advocate who was appearing for the Plaintiff has now withdrawn his appearance, and a different Advocate would now represent the Plaintiff on the next date of hearing, which is 12.02.2026.

7. Considering these facts, though the impugned Order is well justified, it is only to give the Plaintiff an opportunity to complete the evidence, and on the basis of the circumstances pleaded in the affidavit, the impugned Order is quashed and set aside. The Plaintiff shall now

appear before the trial Court on 12.02.2026 at 02:30PM and shall complete his evidence including cross-examination either on that date or any further date that the District Court finds convenient to adjourn the matter. There shall be no adjournments granted to the Plaintiff except on some very special circumstances.

8. Further, considering that the Plaintiff, who for the reasons stated in the affidavit has attributed a delay in the disposal of the Suit, he shall pay to the Defendants No.4 and 5, who are the contesting parties, costs of Rs.25,000/- as a pre-condition for recording evidence on the next date of hearing and further, a sum of Rs.10,000/- be deposited before the Goa State Legal Services Authority, as costs on or before 12.02.2026.

9. For the reasons stated above, the impugned Order dated 08.01.2026 is quashed and set aside. Rule is made absolute in terms of prayer clause (a) of the Petition with conditions as stated above.

10. An authenticated copy of this Order shall be given to the Petitioner to produce before the trial Court.

VALMIKI MENEZES, J.

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