



Jose

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.180 OF 2026

1. M/S ASIATIC ESTATE DEVELOPMENTS
Partnership Firm, Duly Constituted under
the Indian Partnership Act, 1932
REPRESENTED BY ITS PARTNER
MR. NATHAN MARK LOBO,
S/o Savio da Rocha Lobo,
Aged 31 years,
Indian National, Bachelor,
Office at 1st Floor, Camila Building,
Opposite Bus Stand,
Panjim, Goa - 400 001.

2. SAVIO DA ROCHA LOBO,
S/o Late Aloysius Lobo,
Aged 65 Years, Having his Office at
1st Floor, Camila Building,
Opposite Bus Stand,
Panjim, Goa-400 001 and
Residing at No.7,
Sunshine Building,
Rua General, B. Guedes,
Panaji, Goa - 403 001.

... Petitioners.

Versus

1. FRANCIS D'SOUZA,
Major in Age,
R/o H. No.214,
Cobravaddo, Calangute,
Bardez, Goa - 403 516.



2. EUDES D'SOUZA,
Major in Age,
R/o H. No.214,
Cobravaddo, Calangute,
Bardez, Goa - 403 516.

3. CARMELINA D'SOUZA E GOMES,
Major in Age,
R/o H. No.214,
Cobravaddo, Calangute,
Bardez, Goa - 403 516.

4. CAPISTRANO GOMES
(SINCE DECEASED REPRESENTED
HEREIN THROUGH HIS LEGAL HEIRS)

4a. CLAYTON SUCCORO GOMES,
Major in Age,
R/o H. No.214,
Cobra Vaddo, Calangute,
Bardez, Goa – 403 516.

4b. SUE ALLEN FURTADO,
W/o Clayton Succoro Gomes,
Major in Age,
R/o H. No.214,
Cobra Vaddo, Calangute,
Bardez, Goa - 403 516.

5. FATIMA D'SOUZA E PEREIRA,
Major in Age,
R/o H. No.214,
Cobravaddo, Calangute,
Bardez, Goa – 403 516.

6. BRENDA D'SOUZA E AFONSO,
Major in Age,



R/o H. No.214,
Cobravaddo, Calangute,
Bardez, Goa – 403 516.

7. ANTONIO AFONSO,
Major in Age,
R/o H. No.214,
Cobravaddo, Calangute,
Bardez, Goa - 403 516.

8. MRS. LUELA D'SOUZA E FORTES,
Major in Age,
R/o H. No.214,
Cobravaddo, Calangute,
Bardez, Goa – 403 516.

9. DAMAS FILIPE NARY FORTES,
Major in Age,
R/o H. No.214,
Cobravaddo, Calangute,
Bardez, Goa - 403 516.

... Respondents.

Mr. Ryan Menezes with Ms. M. Silva, Advocates for the
Petitioners.

Mr. Shivan Desai (through V.C.) with Ms. Riya Amonkar,
Advocates for the Respondents.

CORAM: DR. NEELA GOKHALE, J.

DATED: 17th April, 2026

ORAL JUDGMENT:

1. Rule. Rule made returnable forthwith. With the consent of
both parties, the matter is being taken up for final hearing and



disposal. The parties waive Rule notice.

2. By way of the present petition, the Petitioners seek to quash and set aside the order dated 4th October 2025, passed by the Ad-hoc Civil Judge Senior Division, 'B' Court at Mapusa, North Goa, Goa, in Special Execution Application No.15/2013/B. The Ad Hoc Addl. Senior Civil Judge, 'A' Court at Mapusa, Goa, in Special Civil Suit No.124/1996/A, had partly decreed the suit with costs. The operative part of the order passed by the Civil Court reads as thus: -

“The Suit stands partly decreed with costs. Consequently, defendants are ordered to convey and transfer in favour of the plaintiff the said two flats bearing no.G1 and G2 In block B4 of the project known as Paraiso De Praia situated at Sauta Wada, Calangute, Bardez Goa, complete in all respects in terms of specification and description in the schedule annexed to the said agreement dated 12.9.92 and to pay to the plaintiffs a sum of Rs.82,606/- as being the balance consideration and the defendants, their agents, servants, representative or any other person acting for and on their behalf are restrained from transferring or parting with the possession of the said flat bearing no.G1 and G2 in block B4 of the project known as Paraiso De Praia situated in the property bearing survey no.230/1.”

3. Pursuant to the suit being partly decreed, the Decree Holder, i.e. the Respondent in the present matter, filed Execution Proceedings before the Court concerned.



4. The Judgment Debtor, i.e. the Petitioner herein, made an application in the Execution Proceedings raising the question as regards the transfer of property bearing Survey No. 230/5 of Village Calangute by the Decree Holder in his favour, based on the agreement dated 12th September 1992, with respect to performance by the Respondent of their part of the contract. According to the Petitioners, the Respondent had not performed his part of the contract and was therefore unable to act in aid of the Judgment, Order, and Decree passed by the learned Civil Court. Hence he made an application before the Executing Court as stated hereinabove. The same was rejected; hence, he is before this Court for the relief prayed for.

5. Heard Mr. Ryan Menezes, learned Counsel appearing for the Petitioners and Ms. Riya Amonkar, learned Counsel appearing for the Respondents.

6. Mr Ryan Menezes contends that the Civil Court failed to decide the question as to whether the Respondent failed to perform his part of the contract, on account of which the Petitioner was unable to transfer the two flats, namely, Flat Nos. G1 and G2 in Block 4 of the project known as Paraiso de Praia. This application, according to Mr Menezes, ought to have been allowed by the Executing Court under the provisions of Section 47 of the CPC. He, thus, assails the impugned order and prays that the petition be allowed.



7. Ms Amonkar, on the other hand, contends that the Executing Court cannot go beyond the Decree passed by the Civil Court. She submits that there was neither any issue framed nor any finding on any reciprocal agreement to be performed by the Respondent, of any part of the contract, in favour of the Petitioner. The Civil Court clearly directed the Petitioner to transfer the flats bearing Nos. G1 and G2 in Block 4 of the said project in favour of the Respondents. She, thus, submits that there is no infirmity in the order passed by the Executing Court and that the petition be dismissed.

8. I have gone through the record with the assistance of the counsel. I have also carefully perused the Judgment, Order and Decree dated 31st March 2012.

9. It is clear that the Civil Court was concerned only with the issues framed in the suit. There is no issue framed relating to any reciprocal performance of the contract by the Petitioner in lieu of the transfer of flat Nos. G1 and G2 in Block 4 of the said project in favour of the Respondents. The finding of the Executing Court that the said Court cannot travel beyond the Judgment, Order and Decree passed by the Civil Court is valid.

10. By the Judgment and Order passed by the Civil Court, it is only the Petitioner who has been directed to convey the said flats in favour of the Respondents. If the Petitioner was



aggrieved by the omission of the Civil Court to decide upon an issue relating to the performance of the contract by the Respondent, his remedy lies elsewhere.

11. In view of the aforesaid, I do not find any infirmity in the order passed by the Executing Court.

12. In these circumstances, the petition is dismissed. Rule is discharged.

DR. NEELA GOKHALE, J.