



Andreza

IN THE HIGH COURT OF BOMBAY AT GOA
WRIT PETITION NO. 938 OF 2023

Mr. Joseph Pereira, Son of late Francisco Pereira, aged 41 years, service, R/o. H. No. 37/J, Dongorim, Nuvem, Salcete, Goa. ... Petitioner

V e r s u s

1. Cristovam Raimundo Antonio Pereira, S/o Caetano Francisco Pereira, aged about 60 years, service and his wife;

2. Mrs. Maria Ilda Pereira, D/o Caetano Aguiar, aged about 51 years, housewife, both R/o H. No. 2/A, Nuvem, Dongorim, Salcete, Goa.

3. Mr. Sebastiao Jose Pereira, S/o Late Caetano Francisco Pereira, aged about 76 years, retired and his wife;

4. Mrs. Maria Edvis Pereira, D/o Caetano Martinho Dias, aged about 65 years, housewife, Both R/o H. No. 2, Nuvem, Dongorim, Salcete, Goa. ... Respondents

Mr. Harshad Arsekar, Advocate *for the Petitioner.*

Mr. Anirudh Salkar, Advocate *for the Respondents.*

CORAM : DR. NEELA GOKHALE, J.

DATE : 17th APRIL, 2026

JUDGMENT

1. Rule. Rule made returnable forthwith. With the consent of learned Counsel appearing for the respective parties, the matter is



taken up for final hearing. Learned Counsel appearing for the Respondents, waive notice.

2. By way of this Petition, the Petitioner seeks to quash and set aside Orders dated 08.11.2023 passed below Exhibit D-26 and Exhibit D-27 passed by the Civil Judge Junior Division 'G' Court at Margao, in Regular Civil Suit No. 277/2022/G. He has also sought other incidental ad interim reliefs.

3. The case of the Petitioner in brief is that the Respondent nos. 1 and 2 instituted Regular Civil Suit No. 277/2022/G before the Trial Court seeking a declaration of ownership and possession. The Petitioner is the Defendant no. 19 in the said Suit.

4. The Petitioner herein learnt that the Respondent nos. 1 and 2, had also instituted a Suit for partition against his family members who are Respondent nos. 3 and 4 in the present Petition. They are also Defendant nos. 29 and 30 in Regular Civil Suit No. 277/2022/G. The Petitioner also came across the written statements filed by the Respondents' brother in the Suit for partition wherein there were some pleadings relating to the ownership and title of the Respondent nos. 1 and 2 herein in the said property. According to the Petitioner, the pleadings in the said written statements corroborated his contention regarding his interest in the property. Hence, he made an application



at Exhibit 26 in the Civil Suit seeking permission to file additional documents namely, the plaint in the Partition Suit, the written statements filed by the Respondents' brother in the Partition Suit and the deposition of the said brother and few other witnesses recorded in the Partition Suit. Consequently, he filed an amendment application seeking permission to amend the written statement in the Regular Civil Suit No. 277/2022/G to bring on record pleadings related to the said additional documents which he intended to place on record.

5. By the impugned Order, both these applications were rejected. The Trial Court observed that the properties in the Regular Civil Suit No. 277/2022/G were distinct from the properties in relation to which Partition Suit was filed. Hence, on the ground that the said documents were not relevant for adjudicating the issues pending before the Court in Regular Civil Suit No. 277/2022/G, the applications were rejected. These Orders are assailed in the present Petition.

6. Heard Mr. Harshad Arsekar, learned Counsel appearing for the Petitioner and Mr. Anirudh Salkar, learned Counsel appearing for the Respondent nos. 1 and 2. I have also perused the records with their assistance.

7. Mr. Anirudh Salkar, learned Counsel, vehemently contested the present Petition. He submitted that the suit property involved in



Regular Civil Suit No. 277/2022/G is quite distinct from the property involved in the Partition Suit. The property pertaining to the Partition Suit is survey no. 197/33 and 197/39 while the property involved in the Regular Civil Suit No. 277/2022/G is the property surveyed under no. 197/37. He also submitted that the Petitioner herein is not party in the Partition Suit. He further submitted that the Partition Suit is between him and his brother *interse* and the Petitioner has nothing to do in the same. Hence, he prayed that the Petition be dismissed.

8. I have gone through the written statement which is filed in the Partition Suit by the present Respondents' brother. In paragraphs 5, 8, 9 and 11 of the said written statement, there is a reference to the whole property. The said brother has in fact contested the ownership of the present Respondents themselves, in respect of the said suit property including the property mentioned and involved in Regular Civil Suit No. 277/2022/G. The Respondents have alleged that the Petitioner herein is illegally occupying part of the whole property. Considering that the Respondents' brother has pleaded in the written statement in the Partition Suit that the Respondent nos. 1 and 2 herein, are not the owners of the property, the Petitioner herein is desirous of placing reliance on said pleadings in his favour, in defending the Regular Civil Suit No. 277/2022/G. It is also seen that the Regular Civil Suit No. 277/2022/G is yet at the stage of hearing interim injunction



applications. Issues have not yet been framed and the learned Civil Judge Junior Division has not yet applied his mind to the issues involved in the said Suit.

9. In these circumstances, I am of the opinion, that no prejudice will be caused to the Respondents herein if the additional documents comprising of plaint, written statement and depositions in the Partition Suit are permitted to be filed in Regular Civil Suit No. 277/2022/G. The Petitioner herein is well within his rights to seek production of the additional documents and rely on the same while contesting the said Suit. Moreover, merely placing the documents on record does not amount to having proved the said documents and the Petitioner in any case will be required to prove those documents and the contents therein.

10. In view of the aforesaid, I am inclined to permit the Petitioner to place on record the additional documents mentioned in the application for production of additional documents made in the Trial Court at Exhibit D-26. Consequently, he may also be permitted to amend his written statements to include the pleadings corresponding to the additional documents permitted to be filed.

11. Hence, the Judgment and Order dated 08.11.2023 passed by the Civil Judge Junior Division 'G' Court, at Margao, in Regular Civil Suit



No. 277/2022/G passed below Exhibit D-26 and Exhibit D-272026:BHC-GOA:847
quashed and set aside.

12. The Petition is accordingly allowed. Rule is made absolute.

DR. NEELA GOKHALE, J