



Shakuntala

IN THE HIGH COURT OF BOMBAY AT GOA
WRIT PETITION NO.807 OF 2023

Jason Castel, Son of late Mr. Donald Castel,
Married, 49 years of age, Indian National,
Service, resident of D/205, Akash Towers,
Zero Road, Nallasopara, Thane-401203 ... PETITIONER
Versus

1. Mrs. Filomena Nevis Fernandes
Carneiro @ Nevis Carneiro, wife of
late Mr. Victor Carneiro, 69 years of age,
Married, Widow, housewife, Indian National,
resident of Valankani Apts., Vakola,
Santa Cruz (East), Mumbai, 400055
(Since deceased thr. His Lrs)

1a) Mr. Delon John Savio Carneiro,
son of late Mr. Victor Carneiro, 50 years
of age, Bachelor, Indian National, Self-employed,
resident of 201, Valankani Apts., Vakola,
Santa Cruz (East), Mumbai, 400055

2) Mrs. Venezia Carneiro Adithya, residing
at KC Construction Co., Flat No. 101, Santa
Maria Residency, Possarembhat, Taliegao,
Tiswadi, Goa 403 001

3) Mr. Adithya A. Mohani, residing at
KC Construction Co., Flat No. 101, Santa
Maria Residency, Possarembhat, Taliegao,
Tiswadi, Goa 403 001

4) Mr. Blandino Velenko Fernandes,
son of late Mr. Otto Peter Paul Fernandes,
Major in age, Married, Business, resident

of H. No. 725/1, Blessings, Sataporio,
Moiro, Bardez-Goa 403 507

5. Mrs. Sancia Simona Fernandes,
Wife of Mr. Blandino Fernandes, Major
in age, Married, Housewife, resident of
H. No. 725/1, Blessings, Sataporio,
Moiro, Bardez-Goa 403 507

6) Mrs. Prisca Rosaria Fernandes,
Widow of Otto P.P. Fernandes, Major in age,
Housewife, resident of
H. No. 725/1, Blessings, Sataporio,
Moiro, Bardez-Goa 403 507

... RESPONDENTS

Mr. Parag Rao with Mr. Ajay Menon, Advocates for the
Petitioner.

Mr. Sudin Usgaonkar, Senior Counsel with Ms. Tanisha
Mashelkar and Ms. Snehalata Sahani, Advocates for
Respondent No. 1A.

Mr. Melvin Viegas, Advocate for Respondent Nos. 4, 5 and 6.

CORAM:- BHARAT P. DESHPANDE, J.

DATED :- 04th October, 2024

ORAL JUDGMENT.

1. Rule.
2. Rule is made returnable forthwith.
3. The matter is taken up for final disposal with
consent of the parties at the admission stage.

4. Heard Mr. Parag Rao with Mr. Ajay Menon, learned Counsel for the Petitioner, Mr. Sudin Usgaonkar, learned Senior Counsel with Ms. Tanisha Mashelkar and Ms. Snehalata Sahani, learned Counsel for Respondent No. 1A and Mr. Melvin Viegas, learned Counsel for Respondent Nos. 4, 5 and 6.

5. Mr. Rao learned counsel appearing for the Petitioner submits that an application in his suit is filed by Respondent Nos. 4, 5 and 6 for impleadment. Mr. Rao further submits that though such application was opposed and the written arguments were filed, the impugned order is clearly a non-speaking order and more so, without considering the submissions of the Petitioner/Plaintiff.

6. Mr. Viegas learned counsel appearing for Respondent Nos. 4, 5 and 6 would submit that the Advocate for the Plaintiff was present on the day when the impugned order was passed but did not object and therefore, the application for intervention and impleadment was allowed.

7. A perusal of the impugned order dated 15/07/2023 would go to show that it is only containing one paragraph without discussing the ingredients of Order I Rule X of the Civil Procedure Code. There are no findings as to whether Respondent Nos. 4, 5 and 6 are either proper or necessary parties for the purpose of deciding the said suit. The only observation is regarding the claim raised by the Respondent Nos. 4, 5 and 6 that they should be allowed to intervene in order to avoid conflicting decisions. On such contentions raised by the Respondents, even there is no finding of the learned Trial Court.

8. It is clear from the records that the impugned order is a non-speaking order. It is time and again discussed and decided by this Court as well as the Apex Court that any order deciding the application must be a speaking order so that the Appellate Court should understand what is the reason, either for allowing or rejecting such application.

9. The present order is, therefore, considered to be non-speaking order and thus, cannot be sustained.

10. In such circumstances, the recourse available to this Court is to quash and set aside such order and remand the matter to the Trial Court to decide the application for intervention and impleadment filed by the Respondent Nos. 4, 5 and 6, afresh and by hearing the parties to the proceedings.

11. Accordingly, the impugned order is quashed and set aside. The application for intervention and impleadment is restored to the file of the Court with directions to hear the parties to the said application afresh and then decide it in accordance with law.

12. Rule is made absolute in above terms.

13. No costs.

BHARAT P. DESHPANDE, J.