

IN THE COURT OF PRINCIPAL DISTRICT JUDGE, NORTH GOA, AT PANAJI
CIVIL MISC. APPLN. NO.356/2015

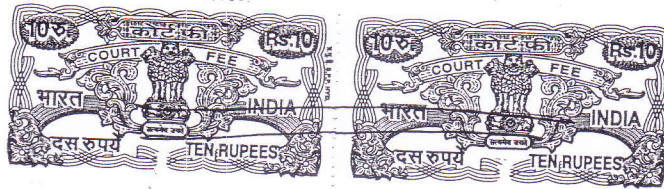
Goa University
Through its Registrar
Shri V. P. Kamal,
Taleigao Plateau, Goa.

... Applicant

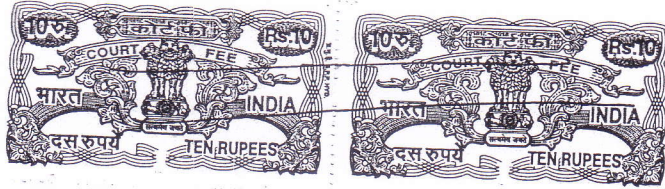
V/s

1. M/s Goan Real Estate and Construction Pvt. Ltd.
Director, Aldeia De Goa,
Nauxim Bambolim - Goa.
2. Mr. Xavier Furtado,
resident of Holiday Inn Resort,
Mobor Beach, Cavelossim Goa.
3. Mr. Octavio Sebastiao Joao de Piedade Menezes,
residing at Precy Building, Ground Floor,
Mala, Panaji -Goa.
Represented by his lawful attorney and mother,
Smt. Dulce Filomena Rego e Menezes,
Residing Precy Building, Ground Floor,
Mala, Panaji -Goa.
4. Hexven Iron Pvt. Ltd.,
A Private Limited Company duly regd. Under
The Indian Companies Act 1956 having its
Regd. Office at Flat No. H-3, Block No. A,
Landscape by the Bay, Miramar,
Caranzalem Goa - 403002.
Represented by their authorized signatory
Ritu Hemant Sharma, major, married,
resident of B-205, Landscape Cabo Project,
Odxel, Taleigao -Goa.

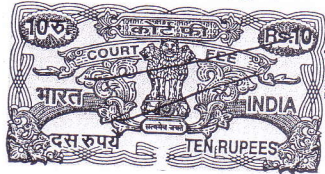
... Respondents



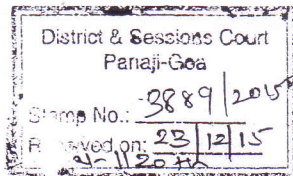
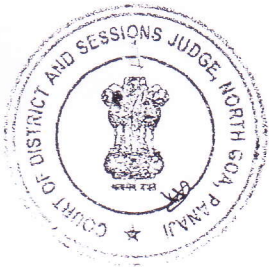
EX-67-B-1



Superintendent
District and Sessions Court
Panaji-Goa



16445
23/12/15



Examined and Registered as Civil Miscellaneous
Panaji Application No. 388/2015 u/s 24 of
CPC for transfer on 28/12/15
Dated: 28/12/15

Asst. Sheristadar

**IN THE DISTRICT AND SESSIONS COURT, NORTH
GOA PANAJI**

CMA (Transfer) Petition No 388/2015

Goa University,

Through its Registrar,

Shri. V.P. Kamat,
Taleigao Plateau,

Goa

..... Petitioner/Applicant

Versus

1. M/s Goan Real Estate and Construction Pvt. Ltd,
Director
Aldeia De Goa,
Nauxim Bambolim- Goa.

2. Mr. Xavier Furtado,
Resident of Holiday Inn Resort,



2-3-
Superintendent
District and Sessions Court
Panaji-Goa

Mobor Beach, Cavelossim Goa.

3. Mr. Octavio Sebastiao Joao de Piedade Menezes,
Residing at Precy Building, Ground Floor,
Mala, Panaji-Goa,
Represented by his lawful attorney and mother,
Smt. Dulce Filomena Rego e Menezes,
Residing Precy Building, Ground Floor,
Mala, Panaji-Goa.

4. Hexven Iron Pvt. Ltd.

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Regd. Office at Flat No. H-3, Block No. A,
Landscape by the Bay, Miramar,
Caranzalem Goa - 403002.

Represented by their authorized signatory
Ritu Hemant Sharma, Major, married,
Resident of B-205, Landscape Cabo Project,
Odxel, Taleigao- Goa.

..... Respondent

**Application under 24 of Civil Procedure Code
for transfer of the proceedings pending before the
Civil Judge Senior Division at Panjim, B court to
other Civil Judge Senior Division at Panaji**

MAY IT PLEASE YOUR HONOUR

The Petitioner herein begs to state and submits as under:

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1. The Petitioner states that they are the plaintiffs in Civil suit no. 38/2008/B pending before Civil Judge Senior Division at Panaji, B court. The Petitioner states that they have filed the present petition for transfer of the proceedings from the Court of Civil Judge Senior Division B court at Panaji, to the court of other Civil Judge Senior Division at Panaji for the reasons as setout herein below.

2. The Petitioner state that they have filed a civil suit against the respondents herein for declaration, mandatory and permanent injunction and consequential reliefs on the ground that the respondents herein have encroached upon an area of 250 sq.mts belonging to the Goa University. The petitioner states that the matter is at the stage of orders on the Application for leading secondary Evidence filed by the petitioner herein. The petitioner states that they had filed written arguments on the Application for leading secondary evidence and the respondents herein had also filed their written arguments in answer thereto. The petitioner states that thereafter the matter was fixed for orders.

3. The petitioner state that on 08/09/2015, when the matter was called out, the presiding judge of the B court, Panaji, disclosed to the both parties, i.e, the petitioner as well as the respondents, that the Hon'ble Judge was attached to the chamber of Advocate Bhangu, who appears for the respondent no. 1, when he was a practicing Advocate and as such he would not be inclined to take up the matter and if either party had an objection to him taking up and adjudicating upon the matter then

they should intimate their objection to the Hon'ble court on the next date, which was fixed on 01/10/2015. The Hon'ble Judge concluded by saying that if neither party had any objection to him taking up the matter then he would go ahead and dismiss the Application for Secondary Evidence filed by the petitioner herein. The petitioner states that accordingly their Counsel, advised them to decide and intimate the Counsel, as to whether, the University had any objections to the matter being taken up by the Hon'ble Judge, B Court, in the wake of the facts disclosed to them on 08/09/2015.

4. The petitioner further states that Ms. Sneha Talkar, Legal Assistant, Goa University, sought instructions from the Registrar, Goa University, and accordingly a decision was taken by them to intimate the Hon'ble B court to refrain from taking up the matter. The petitioner state that on 29/10/2015, the Presiding judge of the B court, Panaji was informed that the University, was objecting to the matter being taken up by the Hon'ble Presiding Judge, Shri. R. Prabhudessai. The petitioner states that at that point of time the Hon'ble presiding Judge told the Counsel for the University, that the Hon'ble Judge would not say "not before me" with respect to this matter and that petitioner's would have to file Proceedings to transfer the matter to the other court.

5. The petitioner therefore took a decision to file the present transfer petition before this Hon'ble court. The petitioner state that on the basis of the above mentioned facts disclosed by the Hon'ble Presiding Judge, B Court,

Shri. R. Prabhudessai, the Petitioner has got reasonable apprehension that they would not get justice from the Court of Civil Judge Senior Division, B court at Panaji. The petitioner states that the Hon'ble Presiding Judge, B Court has already declared that he would be dismissing the application filed by the petitioner. The petitioner states that since the Hon'ble Presiding Judge, B Court, was working with Adv. Shri. Bhangui there is all the possibility that the Hon'ble Judge would be drawn in favour of Adv. Shri. Bhangui and the respondent no. 1, which would result in denial of justice to the petitioner herein.

6. The Petitioner states that, the matter is now fixed on 05/01/2015 at Panaji for orders at 10.00 am and the Hon'ble Presiding Civil Judge Senior Division, B, has already declared that he would take a decision adverse to the Applicant/ Petitioner herein, who is the plaintiff before the Civil Judge Senior Division at Panaji (B). In the above facts and circumstances the Applicant/ Petitioner apprehend that they would not get justice from the Civil Judge Senior Division (B) where Judge Shri. R. Prabhudessai, is the Presiding Judge and therefore they are not prone to carrying on with the matter before the said Hon'ble Judge as it is apparent and certain that the matter would be adversely decided as against them and that the matter would be pre-judged. It is therefore respectfully submitted that the matter is required to be transferred to other Court of the Civil Judge Senior Division at Panaji.

7. The petitioner therefore prays that:

- a. The application under Section 24 of the Civil Procedure Code be allowed and the proceedings in Civil suit no.38/2008/B which is pending before Civil Judge Senior Division (B) be transferred to the other Civil Judge Senior Division in Panaji. *Special Judge*
- b. Pending the hearing and final disposal of this application this Honorable Court may be pleased to call for the records and/or direct the Civil Judge Senior Division (B) not to proceed with the hearing of Civil suit no.38/2008/B. *Special Judge*
- c. Ex-parte ad interim relief in terms of prayer clause b.
- d. for costs
- e. Such other and further relief as this Honorable Court deems fit in the circumstances of the case.

Panaji

Dated 23/12/2015



Petitioner

Advocate for the Petitioner

Batal

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Superintendent
District and Sessions Court
Panaji-Goa

VERIFICATION

I, Prof. V. P. Kamat, major, married, Registrar, Goa University, Applicant/Petitioner herein resident of Taleigao-Goa do hereby solemnly affirm that the contents of paragraph 1-6 of this application are true to my knowledge based on record and contents of paragraph 7 are based on legal advice which I believe to be correct.

Solemnly affirm at Panaji

On this 23rd Day of December 2015

Identified by me

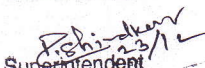

DEPONENT

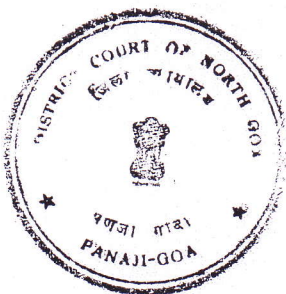


Advocate

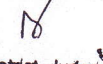
Diviya Bakat

BEFORE ME


Superintendent
District and Sessions Court
Panaji-Goa.



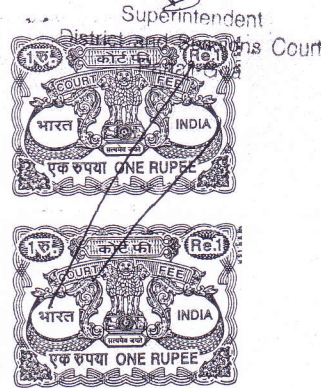
Issues Notices to the Respondents on 27/1/2016 at 2030 PM


District Judge,
North Goa, Panaji.



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23/12/15

AFFIDAVIT



I, Prof. V. P. Kamat, major, married, Registrar, Goa University, Applicant/Petitioner herein resident of Taleigao-Goa do hereby solemnly affirm that the contents of paragraph 1-6 of this application are true to my knowledge based on record and contents of paragraph 7 are based on legal advice which I believe to be correct.

Solemnly affirm at Panaji

On this 23rd Day of December 2015

Identified by me

D. Babal

Advocate

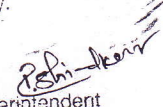
Diviya Babal.


DEPONENT



Solemnly affirmed before me by
Shri/Smt. Prof. V. P. Kamat
who is identified by Adv. MS. D. Babal
whom I know personally.

Panaji 23/12/15


Superintendent
District and Sessions Court
Panaji-Goa.

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Superintendent
District and Sessions Court
Panaji-Goa

Order

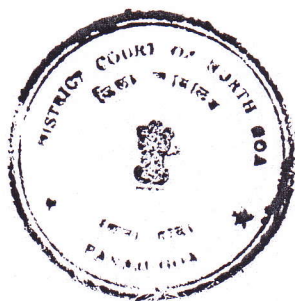
Heard Ld. Counsels for the parties.
Perused the record and the reply filed by the
Respondent No.1 and 3. The present Civil Misc.
Application bearing No.356/2015 for transfer
stands allowed. Records and Proceeding in Special
Civil Suit No.38/2008/B which is pending before
the Court of the Senior Civil Judge "B" Court
Panaji Goa is transferred to the Court of the
Senior Civil Judge "A" Court Panaji for its disposal.
Parties to appear before the Court of Senior Civil
Judge - "A" Court, Panaji on 8th March, 2016.

Issue Letter accordingly.

Proceedings closed.

Panaji.

Dated:29/02/2016.



(B. P. Deshpande)
Principal District Judge
North Goa, Panaji

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original.
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