

**IN THE HIGH COURT OF BOMBAY AT GOA**

**SECOND APPEAL NO. 94 OF 2013**

MRS. SHANTI GAJANAN KERKAR AND  
ANR.,

... Appellants

Versus

MR. RAMCHANDRA NAIK AND 7 ORS.,

... Respondents

Mr. Vilas P. Thali, Advocate for the appellants.

Coram:- U. V. BAKRE, J.

Date:- 10th January, 2014

P.C.

Heard Mr. Thali, learned Advocate for the appellants.

2. Admit on the following substantial questions of law:-

1. Whether the lower appellate Court has substantially complied with the provisions of Order 41 Rule 31 of C.P.C., more particularly having failed to give any findings on the grounds IV, V, VII, VIII and XI raised by the appellants in the memo of appeal?

2. Whether the judgment and decree passed by the lower appellate Court in dismissing the appellants' suit is perverse for having failed to give any finding on the plea of prescription, set up by the plaintiffs under Article 529 of the Portuguese Civil Code, as applicable to the State of Goa?

3. Whether the trial Court, having answered the issue No. 3 in the affirmative, could have decreed the respondent's counter claim for recovery of possession of the first suit property?

4. Whether the suit for recovery of possession, filed by some of the

co-owners of the property, could be decreed in the absence of all the co-owners being made parties to the suit?

U. V. BAKRE, J.

vn