



*Esha*

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

**SECOND APPEAL NO. 6 OF 2012**

**LAWRENCE MARTIN D'COSTA AND  
ANOTHER**

**... APPELLANTS**

**~ VERSUS ~**

**FATIMA BRAGANZA AND ANOTHER**

**... RESPONDENTS**

**APPEARANCES:**

for the Appellants

*Mr. Jatin Ramaiya with Ms. Annelise  
Fernandes and Ms. S. Costa Martins*

**CORAM : AMIT S. JAMSANDEKAR, J.**

**DATED : 17<sup>th</sup> APRIL 2026**

**P.C:**

1. Heard Mr. Jatin Ramaiya with Ms. Annelise Fernandes for the Appellants. None appears for the Respondent, though duly served.
2. The Appellants by the Second Appeal have challenged the Judgment and Decree dated 19.07.2011, passed in Regular Civil

Appeal No. 270/2010, whereby the learned District Court, North Goa at Panaji dismissed the Appeal filed by the Appellants against Judgment and Decree dated 03.04.2010, whereby the Suit filed by the Appellants was dismissed and the Counter Claim filed by Respondent No. 1 was partly allowed. The operative part of the Judgement and Decree dated 03.04.2010 reads as follows:-

*“The suit of the plaintiff is hereby dismissed with costs.*

*The counter claim of the defendants is hereby partly granted.*

*The plaintiffs, their family members, representatives, person or persons claiming through them are hereby restrained from interfering, and/or blocking the entry of the family of the defendant no.1 in the suit premises, during the period of four months to which the defendant no. 1 and her family members are entitled to run the bakery business in the suit premises during their turn by rotation.*

*Decree be drawn up accordingly.*

*Proceedings closed.”*

3. Vide Order dated 15.06.2012, this Court ‘Admitted’ the Second Appeal filed by the Appellant herein on following question of law:-

*“Whether the permanent injunction granted by the Courts below satisfies the requirements of the Section 38 of the Specific Relief Act?”*

4. Vide Order dated 01.08.2025, this Court directed that this Appeal be re-notified at the bottom of the admission board. Thereafter, vide Order dated 03.10.2025, the Advocate for Respondent No. 1 was allowed to recuse from the proceedings and his appearance was waived as he was unable to establish contact with Respondent No. 1. Accordingly, this Court deemed it fit to issue fresh notice to Respondent No. 1 on the address mentioned in the cause title.
5. It appears from the records, particularly, the office note dated 15.01.2026, that Respondent No. 1 was duly served, pursuant to the Order dated 03.10.2025.
6. Mr. Ramaiya, appearing for the Appellants, has taken me through the records and placed on record across the Bar the condition of the suit premises as on today. He submits that the condition of the premises is precarious and the same may not withstand the ensuing monsoon season.
7. Mr. Ramaiya has particularly taken me through written statement filed by Respondent No. 2 before the learned Trial

Court, wherein Respondent No. 2 the owner of the suit premises stated thus:-

*“3) It is submitted that though the suit premises was leased out to the Plaintiffs, there was a mutual understanding between the family of the Plaintiffs and the Defendant No:1 to run the business of bakery from the suit premises in rotation of four months by each party. The Plaintiff and the Defendant No. 1 were doing bakery business in rotation from the suit premises, since last many years for which this Defendant had no objection. It is a fact that 01.09.1996, it was the turn of Defendant No. 1 to run the bakery from the suit premises for four months. It is also a fact that during the period when their respective families of the Plaintiff and the defendant No. 1 were running the bakery business in the suit premises, they used to come and stay in the suit premises and carry on the business of baking bread and selling them in the suit premises for a period of four months. During their respective turn of running the bakery, the family of either party used to vacate the suit premises for such period of four months to enable the other party to run the suit business in the suit and the monthly rent for the suit premises was accordingly used to be paid by such party to this defendant who used to run the bakery for their respective period of four months. In this way the bakery business was being run in rotation of four months both by*

*the family of the plaintiffs and the defendant No. 1 in the suit premises since years.”*

8. Considering the fact that Respondent No. 2 i.e. the original owner of the suit premises, has admitted that Appellants/ Plaintiff are tenants of the suit premises and according to the Respondents there existed some family arrangement qua business operation of a bakery in the suit premises, it is imperative that the suit premises are protected and preserved from vagaries of nature. Therefore, the request made by Mr. Ramaiya to allow the Appellants to carry out repair works in the suit premises appears to be reasonable.
9. Considering the material on record and photograph produced by the Appellants herein, I am inclined to permit the Appellants to carry out repairs to the existing suit premises to strengthen the same and preserve the suit premises. However, it is made clear that the Appellants herein shall not claim any equities for carrying out such repairs to the suit premises. This interim arrangement is made without prejudice to the rights and contentions of all the parties in the present proceedings for the limited purpose of preserving the suit premises.
10. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on

production by fax or email of a digitally signed copy of this order.

**[ AMIT S. JAMSANDEKAR, J. ]**