

IN THE HIGH COURT OF BOMBAY AT GOA

SECOND APPEAL No. 106 OF 2019

MAHADEV NARAYAN CHARI AND ANR., **Appellant**

Versus

DINESH D. MAHALE

.... **Respondent.**

Shri Ryan Da Piedade Menezes, Advocate under Legal Aid Services for the Appellants.

Coram : NUTAN D. SARDESSAI, J.

Date : 30th June, 2020

P.C.:

Admit on the following substantial questions of law:

- A) Whether in the light of oral and documentary evidence led by the Appellants, which proved the existence of the suit property, their possession thereof, existence of their flour mill therein and interference by the Respondent with their possession thereof, the Hon. Courts below erred in proceeding on the basis of surmise and conjecture, irrelevant facts and/or mis-appreciation of evidence, to answer Issue Nos. 1-3 against the Appellants, to dismiss their suit and to refuse the decree they claimed?

B) Whether the failure of the Hon. Lower Court frame proper points for determination, following the mandate of Order XLI, Rule 31 of the Code of Civil Procedure, and in light of the findings in the original Decree and grounds raised to impugn them, misdirected its consideration of the record and its findings, and vitiates the impugned Decree?

C) Whether findings of the Hon. Courts below as to possession of the suit property are borne from a misconstruction, misinterpretation and/or misapplication of the true and correct scope and/or amplitude of the meaning of 'possession', in the context of possession in law and/or legal possession, as opposed to physical possession?

Nutan D. Sardesai, J.