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

**WRIT PETITION NO. 171 OF 2026**

1. **RAJESH ASHOK KHAUNTE**, son of late Mr. Ashok Khaunte, age 52 years, married, business;
2. **AKSHADA RAJESH KHAUNTE**, wife of Rajesh Khaunte, age 46 years, married, business, both Indian Nationals and residents of 1213, Casa De Monte, B.B. Borkar Road, Badem, Salvador-Do-Mundo, Goa.

**... PETITIONERS**

**~ VERSUS ~**

1. **THE STATE OF GOA**, through the Chief Secretary, Secretariat, Porvorim, Goa.
2. **DEPARTMENT OF LAW AND JUDICIARY**, Government of Goa, through the Secretary (Law), Secretariat, Porvorim, Goa.
3. **THE STATE REGISTRAR & HEAD OF NOTARY SERVICES**, having office at 7<sup>th</sup> Floor, Shramashakti Bhavan, Patto, Panaji, Goa.
4. **REGISTRAR OF FIRMS**, Civil Registrar cum Sub-Registrar of Tiswadi, having office at Spaces Building, 2<sup>nd</sup> Floor, Patto Plaza, Panaji, Goa.

**... RESPONDENTS**

**APPEARANCES:**

for the Petitioners

*Senior Advocate, Mr. S.S. Kantak with Mr.*

*Amey Sinai Kakodkar, Ms. Neha Kholkar  
and Ms. O. FernandesCarvalho*

for the Respondents

*Ms. Simone Maria Correia, AGA*

**CORAM : VALMIKI MENEZES &  
AMIT S. JAMSANDEKAR, JJ.**

**DATED : 16<sup>th</sup> MARCH 2026**

**ORAL JUDGMENT: (per VALMIKI MENEZES, J.)**

1. Heard the learned Senior Counsel, Mr. Kantak, appearing for the Petitioners.
2. Rule. The learned Additional Government Advocate, Ms. Correia, waives service of notice on behalf of the Respondents. The Rule is made returnable forthwith by consent of the parties.
3. The Petitioners have invoked the jurisdiction of this Court under Article 226 of the Constitution of India to impugn communication dated 28.10.2025 issued by the Registrar of Firms, Tiswadi, calling for further information from the Petitioners as to the status of their marriage, purportedly to facilitate the process of registration of their reconstituted Firm.
4. Petitioner No. 1 and his brother, Mr. Rohan Khaunte, initially registered a partnership Firm on 11.02.2016. Thereafter, this Firm was reconstituted in terms of the provisions of Section 63(1) of the Indian Partnership Act, 1932 on 05.06.2025 with Akshada Khaunte, wife of Petitioner No. 1 being inducted in the Firm. The Firm was reconstituted with three partners i.e.

the two Petitioners herein and Mr. Rohan Khaunte. Subsequently, the Firm was once again reconstituted on 27.06.2025 when a fresh Deed of Reconstitution of the Partnership was entered amongst the Petitioners after Mr. Rohan Khaunte retired from the original partnership and the partnership continued with the two partners i.e. the Petitioners herein. The Petitioners are husband and wife, with their marriage being registered in accordance with the Civil Code of Goa applicable to them.

5. A note must be taken that prior to the registration of the partnership on 05.06.2025, the Registrar of Firms, by communication to the Law Department had sought opinion of the Law Secretary as to whether there was any prohibition for married spouses, under the regime of communion of assets applicable to the State of Goa, to register themselves as partners in terms of the Civil Code. By communication dated 05.05.2023, the Law Department, Government of Goa submitted its opinion to the Registrar of Firms clearly stating that there was no prohibition in terms of Section 5 of the Partnership Act, 1932 and there is no embargo on the husband and wife to enter into the Partnership Deed, governed by the Civil Code i.e. regime of communion of assets applicable to the State of Goa, in order to constitute a partnership Firm. It opined that there was no impediment for constitution of partnership Firm by spouses governed by the Civil Code of Goa.
6. The Petitioners have reconstituted the partnership by Deed dated 27.06.2025, in terms of Section 63(1) of the Indian Partnership Act and Rule 7(6) made under the Rules of the Indian Partnership Act in Form VI and moved the Registrar of Firms for recording the changes and registering the reconstitution of the Firm under the reconstituted

Partnership Deed dated 27.06.2025. Instead of recording such changes in the Register, the Registrar of Firms has issued a communication dated 28.10.2025, which is impugned herein.

7. We have heard the learned Senior Advocate Mr. Kantak appearing for the Petitioners and the learned Additional Government Advocate, Ms. Correia, for the Respondents.

8. Rule 5 of the Indian Partnership Act as amended for the State of Goa reads as follows:-

*“5. Partnership not created by status: The relationship of partnership arises from contract and not from status; and, in particular, the members of a Hindu undivided family carrying on a family business as such, or a husband and wife under the regime of communion of property carrying on business as such, are not partners in such business.”*

9. Rule 5, as amended for the State of Goa, has taken into consideration the regime of communion of assets that would apply to spouses when married under the Civil Code of Goa and has specifically incorporated this provision to enable the spouses married under the regime of communion of assets to create a partnership by a contract. Thus, for the State of Goa, Rule 5 recognizes contracts between spouses, whose marriage is registered under the Civil Code and regime of communion of assets.

10. Sub-section (1) of Section 63 of the Partnership Act only empowers the Registrar to record changes in the constitution of the Firm. There is no power vested in the Registrar under Section 63 to reject any Application for recording any changes, which are incorporated in the Deed of constituted partnership. The power is limited and the provisions of

Section 5 cannot be availed by the Registrar to examine the Partnership Deed and reject the Application under Section 63(1) for recording the constitution or dissolution of the partnership.

11. On referring to the communication dated 28.10.2025, it appears that the Registrar of Firms is clearly on transgression of the limited powers vested in it by seeking a clarification on the status of the marriage between the Petitioners; this is more so in the light of specific averments to Section 5 of the Indian Partnership Act for the State of Goa, factoring the marriage between the Petitioners under the communion of assets. Amended Section 5, as quoted by the Registrar under the communication, specifies that the contract between the spouses under the regime of communion contract are valid and the mere fact that they are registered, would not be an impediment for reconstitution of the Partnership Deed. The impugned communication dated 28.10.2025 travels beyond the powers of the Registrar of Firms and therefore, must be quashed and set aside. Obviously, there is no impediment of whatsoever nature to record the changes in the reconstitution of the Partnership Deed in the Register, which shall now be done within two weeks from the date of presenting this order before the concerned Registrar of Firms.

12. For the reasons stated above, Rule is made absolute in terms of prayer clause (a) of the Petition, which reads thus:

*a. For an Order for a writ of certiorari or a writ in the nature of certiorari or any other appropriate writ, direction or order quashing and setting aside the Letter dated 28/10/2025 of the Respondent No. 4 to accept and register the Deed of Retirement cum Reconstitution of Partnership dated 27/06/2025 under the Indian Partnership Act, 1932.*

**13.** The Registrar shall record the change and register it within a period of two weeks and communicate to the Petitioners.

**14.** The Petition stands disposed of.

[ AMIT S. JAMSANDEKAR, J. ]

[ VALMIKI MENEZES, J. ]