

IN THE HIGH COURT OF BOMBAY AT GOA

MISC.CIVIL APPLICATION NO. 566 OF 2014

IN

SECOND APPEAL NO. 127 OF 2005

SHRI DASHARATH SHABI/SHANU
CHODANKAR AND ANR.,

... Applicants

Versus

SHRI BABU BABAL KOLE SINCE DEC.
THR. LEGAL REPRESENTATIVE AND 5
ORS.,

... Respondents

Ms. Ashwini Agni, Senior Advocate with Ms. Kalpa Govekar,
Advocate for the Applicants.
Shri Valmiki Menezes, Advocate for the Respondent No. 1.

Coram:- C. V. BHADANG, J.

Date:- 10th September, 2015

P.C:

This is an application by the applicants for bringing the legal representatives of deceased respondent no. 5 on record. The respondent no. 5 died on 12.12.2011. According to the appellants/applicants the respondent no. 6 is the legal representative of respondent no. 5, being the son-in-law of respondent no. 5. It is claimed that apart from respondent no. 6, respondent no. 5 has two more legal representatives, namely Shri Tony Jose Camilo Lisboa and Mrs. Tony Lisboa. It is contended that as respondent no. 6 is already on record, the appeal would not abate.

2. Notice was issued to the proposed legal representatives at para 1(a) and (b). The proposed legal representatives have not put in

appearance, though served.

3. Respondent no. 3 filed a reply opposing the same on the ground that respondent no. 5, Anita Lisboa was domiciled in Mumbai, where she expired. Thus, she was not governed by law relating to Communion of Assets, as applicable to Goa and as such, respondent no. 6 would not be the legal representative of respondent no. 5.

4. I have heard Ms. Agni, the learned Senior Counsel for the applicants and Shri Menezes, the learned Counsel for the respondent no. 1.

5. It is apparent that neither the proposed representatives nor respondent no. 6 have opposed the application. The opposition comes from respondent no. 3, on the ground that the deceased was not domiciled in Goa and had also expired at Bombay. This issue cannot be decided on mere application for bringing the legal representatives on record. The effect if any, of such claim on the relief, which can be granted in the Second Appeal, can only be looked into, at the final hearing of the Second Appeal. Thus, without going into the issue whether respondent no. 3 can justifiably raise objection to the application and keeping the contentions open, the application is allowed. The proposed respondents at para 1(a) and (b) be brought on record as respondent nos. 5(a) and 5(b), as prayed.

6. The application is allowed and disposed in aforesaid terms.

C. V. BHADANG, J.

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