

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 288 OF 2016

LUCIO NEVILLE JUDE DE SOUZA AND 2
ORS.,

... Petitioners

Versus

SHRI BRIAN ELIZARIO D'SOUZA AND
ANR.,

... Respondents

Shri Sudin Usgaonkar, Senior Advocate With Ms. Tanvi Ghanekar,
Advocate for the petitioners.

Shri J. E. Coelho Pereira, Senior Advocate with Shri V. Korgaonkar,
Advocate for the respondent nos.1(c) & 2.

Coram:- F. M. REIS, J.

Date:- 16th November, 2016

P.C.

Heard Shri S. Usgaonkar, learned Senior Advocate for the
petitioners and Shri J. E. Coelho Pereira, learned Senior Advocate for
the respondent nos.1(c) & 2.

2. The petitioners take exception to the order passed by the Courts
below whereby the Inventory Proceedings bearing No.109/1985/III
pending before the learned Adhoc Addl. Senior Civil Judge at
Margao(III) were kept in abeyance awaiting the decision in Special
Leave Petition(Civil) bearing No.148 of 2013 filed by the respondent
nos.1 and 2 challenging the order rejecting their application to hold
fresh auction.

3. On perusal of the Order passed by the Apex Court dated
7.5.2013, the parties were directed to maintain status quo in respect

of the subject plot. It is pointed out by Shri Usgaonkar, learned Senior Advocate for the petitioners that though the respondents sought stay of the operation of the impugned order and the proceedings before the Inventory Court, such reliefs were not apparently granted by Apex Court and as such, according to him, there is no bar for the Inventory Proceedings to continue to its logical conclusion.

4. Mr.Coelho Pereira, learned Senior Advocate for the respondent nos.1(c) and 2 however points out that the decision before the Apex Court would have a material bearing in the ultimate chart of partition which would have to be prepared based on the auction carried out in such proceedings. Considering that it is not disputed that the subject plot is the only asset of the estate leaver which has been described and in case the Inventory Court proceeds to prepare the final chart of partition which can lead to other consequences in law and as status quo has been ordered by the Apex Court, I find that proceedings before the Inventory Court would have to be kept in abeyance to await the decision in the Special leave Petition(Civil)no.148/2013 pending before Apex Court.

5. No doubt, Mr. Usgaonkar, learned Senior Advocate would be justified to contend that there would be no bar to continue with the proceedings in case more assets were described in the said proceedings. Thus as the subject plot is the only asset of the estate leaver, further steps in such proceedings would be based on the outcome of such Special Leave Petition.

6. In view of the above, the petition stands disposed off accordingly.

F. M. REIS, J.

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