

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO.131 of 2016**

1. Mr. Anil G. Lotlikar
son of Govind Narayan Lotlikar
major of age, businessman,
2. Mrs. Preeti Anil Lotlikar,
wife of Mr. Anil Lotlikar,
major of age
Both residing at H. No.112,
Lotlikar House,
Opp. Alankar Bldg.,
Paji Fond, Margao, Goa .. Petitioners

V/s

1. Mr. Suresh G. Lotlikar,
son of Govind Narayan Lotlikar
major of age, businessman,
residing at 503/5, 4th Floor,
Lotlikar Building,
Jagannath Shankar Shet Road,
Chira Bazar, Mumbai- 400 002.
2. Smt. Anjali Raikar
resident of Pundalik Nagar,
Alto Betim, Bardez Goa
and her husband.
3. Dr. Narahari Vinayak Raikar,
(Since deceased through his
Legal Representatives)
 - a) Manisha N. Vernekar
 - b) Sonal P. Lotlikar
 - c) Praveen LotlikarAll Residents of Sanchayani Ananta,
Vishvas Bldg, Flat No.3,
Vidya Nagar, Margao Goa.
 - d) Teja V. Raikar
 - e) Vivek Walke,
Both residents of H. No.388,
Umra Waddo, Salvador-do-Mundo,
Bardez, Goa.
 - f) Kedar Narahari Raikar

resident of House No.881,
Pundalik Nagar, Alto Betim,
Bardez Goa.

g) Miss Avani Vernekar
daughter of Lt. Narayandas K. Vernekar,
through her mother Manisha Vernekar.

Resident of Sanchayani Ananta,
Vishwas Bldg., Flat No.3,
Vidya Nagar, Margao Goa.

h) Mrs. Trupti K. Raikar,
resident of Pundalik Nagar,
Porvorim-Goa.

4. Seema Raya Karekar
and her husband;

5. Raya Padmanabh Karekar,
both residents at A/3, Adarsh Colony,
Caranzalem, Goa 403 002.

6. Satyawati Govind Lotlikar,
(deleted)
(Respondent nos.2 to 6 are
deleted as per order dated
27/04/16).

7. Suhas G. Lotlikar,
Lotlikar Bldg, 503/5,
J. S. Road, Chira Bazar,
Mumbai-400 002.

.. Respondents

Mr. Sudin Usgaonkar, Senior Advocate with Mr. K.
Padgaonkar, Advocate for the petitioners.

Mr. G. Teles, Advocate for the respondent no.1.

Mr. J. J. Mulgaonkar, Advocate for the respondent no.7.

CORAM :- C. V. BHADANG, J.

Date : 27th April, 2016.

ORAL JUDGMENT :

Rule. Rule made returnable forthwith. The

learned Counsel for the respective respondents waive service. Heard finally by consent of the parties.

2. The learned Senior Counsel for the petitioners, on instructions, seeks permission to delete the respondent nos.2 to 6. Permission is granted at the risk of the petitioners. Amendment to be carried out forthwith.

3. This is second time that the matter has come to this Court. By an order dated 01/09/2015 in A.O.Nos.52 and 40 of 2008, this Court had remanded the applications Exhs.43 and 47 to the Inventory Court for deciding the same afresh. This was subject to payment of costs of Rs.10,000/- in each of the appeals, which were payable on or before 28/09/2015. It appears that the costs were not deposited within time. As such, by an order dated 07/10/2015, the application Exh.43 was dismissed while the application Exh.47 was dismissed for default. The Executing Court also refused to review the order on 27/11/2015 on the ground that the time granted by this Court cannot be extended by the Inventory Court.

4. The record shows that the costs were eventually deposited before the Court on 29/10/2015 and thus, there is delay of about one month in depositing the costs. The learned Senior Counsel for the petitioners submits that the same may be condoned. The learned Counsel for the contesting respondent no.1 has no objection for the same. As such, the following order is passed by consent of the parties :

(i) The petition is allowed.

(ii) The impugned order dated 07/10/2015 is hereby set aside.

(iii) The Trial Court shall decide applications Exhibits 43 and 47 on their own merits, in accordance with law.

(iv) Parties to appear before the Inventory Court on 04/05/2016 at 10.00 a.m.

(v) The Trial Court shall decide the proceedings as expeditiously as possible and preferably within a period of 6 months from the receipt of this order.

(vi) Rule is made absolute in the aforesaid terms,
with no order as to costs.

C. V. BHADANG, J.

SMA