

IN THE HIGH COURT OF BOMBAY AT GOA

MISC.CIVIL APPLICATION NO. 177 OF 2015

IN

SECOND APPEAL NO. 166 OF 2011

MRS. JENNIFFER MESSIAS.

... Applicant

Versus

MR. THOMAS BRAGANZA AND 2 ORS.,

... Respondents

Mr. Parag S. Rao, Advocate for the Applicant.

Mr. V. Menezes, Advocate for Respondents no.1 & 2.

Mr. J. Godinho, Advocate for the proposed legal representatives of respondent no.3.

Coram:- F. M. REIS, J.

Date:- 7th April, 2016

P.C.:

This is an application to bring the legal representatives of the deceased respondent no.3 on record and to set aside abatement and also for condonation of delay.

2. It is pointed out by Mr. J. Godinho, the learned Counsel appearing for the proposed legal representatives of the respondent no.3 that respondent no.3 had no interest in the subject property and, as such, the question of bringing his legal representatives on record would not arise.

3. Mr. V. Menezes, the learned Counsel appearing for respondents no.1 & 2 submits that taking into consideration the stand of the appellant the collateral of the deceased respondent no.3 have to be

brought on record.

4. Upon hearing the learned Counsel appearing for the respective parties it is not disputed that the deceased respondent no.3 has left a Will in favour of the said proposed legal representatives. As such, I find *prima facie* on going through such Will, as it is not disputed that the proposed legal representative is the beneficiary of such Will, the proposed legal representative can be treated as an inter-meddler in the estate of the deceased. The definition of a legal representative in the Civil Procedure Code clearly includes even an inter-meddler in the estate of the deceased. As such, at this stage, it would not be necessary to examine the contention of the learned Advocate Mr. J. Godinho, which contentions are left open. Be that as it may, as far as the contention of Mr. V. Menezes, the learned Counsel appearing for the respondents no.1 & 2, the legal representative sought to be brought on record would be at the risk of the appellant.

5. Subject to the above, the application is allowed. Delay stands accordingly condoned. The said legal representative of the deceased respondent no.3 is allowed to be brought on record. Application stands disposed of.

F. M. REIS, J.

NH