

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 375 OF 2016

MRS. MARIA TEREZA DE CEU DA COSTA
RODRIGUES AND 4 ORS.,

... Petitioners

Versus

JOSE MANUEAL OCTAVIO DA COSTA
RODRIGUES AND ANR.,

... Respondents

Mr. R. J. Pinto, Advocate for the petitioners.

Coram:- C. V. BHADANG, J.

Date:- 24th January, 2017

P.C.

Heard the learned Counsel for the petitioners.

2. The petitioners are challenging the judgment and order dated 29/11/2014, passed by the learned District Judge, Panaji in Miscellaneous Civil Appeal No.151/2013. By the impugned judgment, the Appellate Court, while setting aside the order passed by the Inventory Court, has allowed the application dated 29/06/2013, filed by respondent nos.1 and 2 for addition of the spouses of the interested parties on record.

3. The Inventory Court, by an order dated 08/10/2013, had found that there is no provision for bringing the spouses of the interested parties on record, who have married during the course of the pendency of the Inventory Proceedings and in that view of

the matter, it dismissed the application.

4. The Appellate Court, on consideration of the provisions of Article 2072 of Portuguese Civil Code, came to the conclusion that Article 2072 contemplates that the Cabeça de Casal is duty bound to declare the names, status, age and capacity of the heirs testamentary or legal, without excluding those, who might exist in the set of known conception.

5. The learned Counsel for the petitioners has submitted that Article 2072 applies at the inception of the Inventory Proceedings and cannot be called into aid in the proceedings at the stage of auction.

6. I have considered the circumstances and submissions made.

7. It is undisputed that the interested parties were married during the pendency of the Inventory Proceedings. One of the reasons given by the learned District Judge is that no prejudice would be caused to the petitioners (respondent nos.5a and 5b before the District Court), if the spouses of the interested parties are brought on record. On the contrary, it would maintain the record of the Inventory Proceedings straight and would avoid multiplicity of the proceedings. The learned District Judge has

found that all the rights and liabilities of the parties can be decided in one proceedings only. Therefore, I do not find that any case for interference is made out in the exercise of supervisory jurisdiction of this Court under Article 227 of the Constitution of India. The petition is without any merit and is hereby dismissed, with no order as to costs.

C. V. BHADANG, J.

SMA