

IN THE HIGH COURT OF BOMBAY AT GOA

APPEAL FROM ORDER NO. 17 OF 2018

NARAYAN G. PARAB., ... Appellant

Versus

SAMEEDHA SAMBHAJI SAWANT., ... Respondent

Shri Shivan Desai, Advocate for the appellant.

Coram:- C. V. BHADANG, J.

Date:- 17th October 2018

P.C.

On 19/09/2018, a notice for final disposal was issued to the respondent. The respondent is served. However, none appears.

2. I have heard Shri Dessai, the learned Counsel for the appellant and the appeal is being disposed of finally.

3. The respondent no.1 (head of the family) has initiated the Inventory Proceedings No.39/2014, which are pending before the learned Civil Judge, Junior Division at Pernem. There are three items listed, which are the subject matter of the Inventory Proceedings. Initially, the respondent no.1 had valued the three items at Rs.50,000/- each.

4. The respondent no.1 filed an application for waiver of the appointment of the Valuer, which was objected to by the appellant, who is the interested party no.7. The Inventory Court, by an order dated 04/01/2018, found that the valuation is on a lower side and, therefore, the parties were directed to suggest the

name of the Valuer to make the valuation. In other words, by the order dated 04/01/2018, the Inventory Court had refused to waive the appointment of the Valuer for valuation of the properties. It appears that subsequently, the respondent no.1 produced a gazette notification and valued the item nos.I, II and III at Rs.1,72,35,000/-, 2,24,60,000/- and 1,76,70,000/- respectively. The appellant claimed that the valuation is still on a lower side and the revised valuation does not take into consideration the developments and the fruit bearing trees, which are existing in the property. In short, the appellant objected to the revised valuation also and again sought for appointment of the Valuer.

5. The Inventory Court, by the impugned order dated 31/03/2018, has refused to appoint the Valuer. The Inventory Court has found that neither the improvements or developments have been included in the list of assets nor there is any mention about the existence about any fruit bearing trees in the properties, which are subject matter of the Inventory Proceedings. As far as the appointment of the Valuer is concerned, the Inventory Court has found that earlier the parties were directed to suggest the name of the Valuer as the valuation shown was "very less". However, in view of the fact that the respondent no.1 has produced the official gazette, showing valuation of the property at Rs.100/- per square metre, the Inventory Court has found that the same needs to be accepted and has, therefore, rejected the

objection raised by the appellant.

6. Shri Dessai, the learned Counsel for the appellant has submitted that all the three assets are properties having extensive area of more than 1 Lakh square metres each. It is submitted that the government gazette cannot be accepted as a basis for valuation, particularly when the valuation as made in the government gazette is not even reckoned for the purposes of payment of stamp duty in Conveyances and other documents. The learned Counsel has placed reliance on Section 409 of the Goa Succession, Special Notaries and Inventory Proceedings Act, 2012 (the Act, for short), in order to submit that after the objections to the list of assets have been decided, the Court has to appoint the Valuer for valuation of the assets as on the date of the opening of the inheritance. He submits that the Inventory Court could not have refused to appoint the Valuer on the basis of the valuation as shown in the government gazette.

7. I have considered the circumstances and the submissions made.

8. Earlier, by an order dated 04/01/2018, the Inventory Court had refused to waive the appointment of the Valuer presumably on the ground that the valuation as shown at that stage was quite less. The only change in the circumstances is about the respondent no.1 having produced government gazette, showing valuation of the property at Rs.100/- per square metre, which the Inventory Court has found to be acceptable. In my considered

view, there is a dispute between the parties as to the proper valuation of the properties and according to the appellant, this revised valuation is also on lower side. Under Section 409 of the Act, the Inventory Court is required to appoint the Valuer for the proper valuation of the properties and such valuation made shall enure to the benefit of all the parties before the Inventory Court. In that view of the matter, the appeal is allowed. The impugned order is hereby set aside. The Inventory Court shall appoint the Valuer for valuation of the properties in accordance with Section 409 of the Act. The appeal is disposed of in the aforesaid terms.

C. V. BHADANG, J.

SMA