

IN THE HIGH COURT OF BOMBAY AT GOA**APPEAL FROM ORDER NO. 31 OF 2018**

1. Shri Balkrishna Shivram Korde,
S/o late Shivram Vassudev Boto
Korde, aged about 73 years,
married, retired, and his wife

2. Smt. Gauri Balkrishna Korde,
D/o Shri Gajanan Sapre,
aged about 63 years,
housewife, both r/o
H. No.366, Colme,
Curti, Ponda, Goa.

.... Appellants

V e r s u s

1. Shri Manohar Shivram Korde,
S/o late Shivram Vasudev Boto
Korde, aged about 92 years,
married, retired and his wife

2. Smt. Kashibai Manohar Korde,
aged about 83 years,
housewife,
both r/o H. No.368,
Colme, Curti, Ponda,
Goa and 19 others.

..... Respondents

Adv. Shirodkar Neha Anil for the Appellants.

Adv. A. D. Bhobe for Respondents no. 1 and 2.

Adv. Correia Maria Simone Judith for Respondents no.3 to 21.

Coram:- C. V. BHADANG, J.

Date:- 30th August 2018.

Oral Order:

Heard Ms. Shirodkar, the learned counsel for the appellants and Shri Bhobe, the learned counsel for the respondents no.1 and 2.

2. The appellant who is the Cabeça de Casal in an Inventory proceedings is challenging the order dated 7/4/2018 passed by the Inventory Court, directing the appellants to file a new list of assets. The dispute in the present matter is only limited to item no.1, which is a vacant agricultural land. According to the appellants, by virtue of a Memorandum of Understanding (MOU) entered between the parties on 6/9/2013, the item no.1 has been partitioned, the partition has been acted upon and the parties as shown in the MOU are enjoying their respective shares which are separated by metes and bounds. The short issue is whether the entire agricultural land at item no.1 has to be listed or whether the individual items which are denoted by item nos.1-A to 1-O, can also be listed.

3. The Inventory Court has come to the conclusion that if the property is divided then it cannot be listed. The learned counsel for the respondents in all fairness submits that he has no objection for listing the item no.1 as a whole

inasmuch as according to the learned counsel for the respondents the MOU dated 6/9/2013 is disputed and not acted upon.

4. On hearing the leaned counsel for the parties and on perusal of the record, I find that no exception can be taken to the impugned order. The reliance placed on behalf of the appellants on the decision of this Court in the case of **Pedro Joaquim de Rosario Vaz 1996 Vs. Marta Vaz alias Marta Furtao (2) Goa L. T. 263**, is misplaced, inasmuchas, in that case there was a dispute regarding certain movable properties, belonging to the estate lever, which were not listed. In the present case as noticed earlier there is no dispute whatsoever as regards the agricultural property at item no.1 which is part of the inheritance. The apprehension expressed on behalf of the appellants that the appellants by listing the property as a whole would not be in a position to claim that the said property is divided under the MOU is also to my mind misplaced. The inventory proceedings are at the stage of finalization of the list of assets. The portions which are sought to be listed as item nos. 1-A to 1-O are admittedly the part of the larger property i.e item no.1. In such circumstances the appellants would be in a position to establish in the inventory proceedings that there is a MOU which has been acted upon and the respective shares are separated by metes and bounds. In such circumstances, keeping the rival contentions of the parties on the MOU

(including the question whether it has been acted upon) open, the appeal is dismissed with no order as to costs.

C. V. BHADANG, J.

ap/-