

IN THE HIGH COURT OF BOMBAY AT GOA

APPEAL FROM ORDER NO. 18 OF 2019

ARUN POROB MAHAMBRO AND 3 ORS., ... Appellants

Versus

SUREKHA ARUN SANSGUIRI AND 4 ORS., ... Respondents

Mr. M. B. D'Costa, Senior Advocate with Ms. K. Betquecar,
Advocate for the Appellants.

Mr. Sudin Usgaonkar, Senior Advocate with Ms. Tanvi Kamat
Ghanekar, Advocate for the Respondent nos.3, 4 and 5.

Coram:- C. V. BHADANG, J.

Date:- 28th June 2019

ORAL ORDER

Heard Mr. M. B. D'Costa, the learned Senior Counsel appearing for the appellants and Mr. Sudin Usgaonkar, the learned Senior Counsel appearing for the contesting respondent nos.3, 4 and 5. None appears for the respondent nos.1 and 2 though served. In any event, it is only the respondent nos.3, 4 and 5 who are the contesting respondents in this petition.

2. The challenge in this appeal is to the order dated 26.02.2019 passed by the learned Trial Court below application exhibit D-84 filed by the respondent nos.3, 4 and 5 who are interested party no.7 before the Inventory Court in Inventory Proceeding No.42/2003/B. That inventory was initiated upon the death of

Sudhabai, who expired in the year 2003. The respondent no.3 happens to be the widowed daughter-in-law of Sudhabai. The respondent nos.4 and 5 are children of Sudhabai. Admittedly, there is a will of the year 1998 executed by Sudhabai in favour of her two other sons namely Arun and Prakash out of which Arun is the Head of Family (HoF) in the Inventory Proceedings.

3. By the application, exhibit D-84, the respondent nos.3 to 5 sought a direction to the HoF to place on record the Lease/Licence deeds pertaining to item nos.11 to 20 of the List of Assets and for a further direction to deposit the rent of the properties at item nos.11 to 20 which are said to be 10 shops/flats. The Will executed by Sudhabai in favour of Arun and Prakash is not disputed.

4. At the hearing, Mr. Usgaonkar, the learned Senior Counsel for the respondent nos.3 to 5, on instructions, stated that respondents are not pressing for the relief of a direction to the HoF to deposit the rent of the properties at item nos.11 and 20. In other words, the prayer in the said application is restricted to the direction to the HoF to produce the Lease/Licence Deeds on record. In the submission of the learned Senior Counsel for the respondent nos.3 to 5, the reason for requiring the HoF to produce the Lease/Licence Deeds is to ascertain whether the Will executed in favour of Arun and Prakash in which Rajiv, deceased

husband of the respondent no.3, has been excluded is restricted to the disposable quota of Sudhabai.

5. Mr. M. B. D'Costa, the learned Senior Counsel appearing for the appellants pointed out that the valuation report of all the ten shops/flats which are item nos.11 to 20 are already on record and it is not the case made out in exhibit D-84 that to ascertain whether the Will is within the disposable quota of Sudhabai, the copies of the Lease/Licence Deeds are required to be produced. The learned Senior Counsel was at pains to point out that the Will executed by Sudhabai has otherwise not been disputed.

6. On hearing the learned Counsel for the parties, I do not find that even the prayer to the extent of requiring the HoF to produce the Lease/Licence Deeds can be allowed to stand as has been rightly pointed out by the learned Senior Counsel for the appellants that the Will executed by Sudhabai is not disputed. It is not even the case made out in the application-exhibit D-84 that the production of the Lease/Licence Deeds is necessary to ascertain as to whether the Will executed by Sudhabai is restricted to the extent of the disposable quota. That apart, the valuation reports of all the ten shops/flats are already on record and thus on the basis of said valuation reports, it will be open to the respondent nos.3 to 5 to raise all such contentions as are permissible on facts and in law, in respect of the Will executed

by Sudhabai.

7. With this, the appeal is allowed. The impugned order is hereby set aside. The application exhibit-84 is hereby dismissed.

In the circumstances, there shall be no order as to costs.

C. V. BHADANG, J.

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