

IN THE HIGH COURT OF BOMBAY AT GOA

APPEAL FROM ORDER NO. 40 OF 2019

ODETTE DA SILVA.,

... Appellant

Versus

MARIA V. C. S. DE VIERIA VELHO E
CELINA ALMEIDA AND 7 ORS.,

... Respondents

Mr. Chaitanya Prakash Padgaonkar, Advocate for the Appellant.

Mr. S.G. Bhobe, Advocate for Respondent Nos. 1 and 2.

Coram:- C. V. BHADANG, J.

Date:- 2nd August, 2019

ORAL ORDER:

The challenge in this Appeal is to the order dated 19.07.2018, passed by the learned Inventory Court in Inventory Proceeding No. 20/1999/B. By the impugned order, the objection filed by the appellant/interested party to the second list of assets, filed by the Head of Family (HoF) at Exhibit-D/85, has been dismissed and an inquiry has been ordered in respect of the second list of assets at Exhibit-D/85.

2. The brief facts are that Mrs. Maria Aura Velho, the widow of the Estate Leaver had filed the aforesaid inventory proceedings. Mrs. Maria Aura Velho was appointed as a HoF and she had filed the list of assets. After her death, her son came to be appointed as HoF and after the death of her son, the first

respondent, who is the daughter of the Estate Leaver has been appointed as the HoF. She filed a second list of assets containing about 283 items in addition to the first list, which was objected to by the appellant, on the ground that Mrs. Maria Aura Velho had already filed the list of assets. The appellant filed a separate application for discarding the second list of assets. The objection raised by the appellant to the second list of assets has been rejected and the Inventory Court has directed inquiry.

3. I have heard Mr. Padgaonkar, the learned Counsel for the appellant and Mr. Bhobe, the learned Counsel for the respondent nos. 1 and 2. Perused record.

4. Mr. Padgaonkar, the learned Counsel for the appellant has submitted that it was not permissible for the respondent no. 1 to have filed the second list of assets, particularly when Mrs. Maria Aura Velho, who had initiated the inventory proceedings and who was appointed as the HoF, had already filed the list of assets, in which, inquiry is yet to commence. It is submitted that the Inventory Court was not justified in invoking Section 384 read with Section 376 of the Goa Succession, Special Notaries and Inventory Proceeding Act, 2012 (Act, for short) in rejecting the application filed by the appellant. In the submission of the learned Counsel for the appellant, the second list which is filed after more than a decade and half, after initial list of assets, has

to be discarded.

5. Mr. Bhobe, the learned Counsel for the respondent nos. 1 and 2 has supported the impugned order. The learned Counsel has referred to the objection dated 21.07.2015, filed by the appellant to the second list of assets. On the basis of the said objection, it is pointed out that even according to the appellant, item nos. 1 to 101 of the second list of assets are already listed at item no. 5 of the first list and even as regards the other items, such as, item nos. 102 to 261, the case made out by the appellant is that they are already listed. He submits that the Act contemplates filing of a second list of assets, if some of the properties left by the Estate Leaver are excluded. He pointed out Section 378 of the Act in this regard. He submits that all that the Inventory Court has ordered is an inquiry, which does not affect the rights of the appellant.

6. I have considered the circumstances and the submissions made. Admittedly, the inquiry, insofar as the finalisation of the first lists of assets is concerned, has not even commenced. The learned Counsel for the respondent nos. 1 and 2 is right in contending that even as per the objection raised by the appellant, several items in the second list of assets are already included in the first list of assets.

7. All that the Inventory Court has ordered is an inquiry into to the second list of assets. The Inventory Court, in my considered view, is right in holding that the second list of assets, filed by the respondent no. 1 cannot be discarded for the asking and an inquiry is to be held insofar as the second list of assets is concerned. It is obvious that the Inventory Court would be required to hold an inquiry in respect of both the lists, the first as well as the second list of assets, in order to finalise the list of assets.

The impugned order does not suffer from any infirmity so as to require interference. The Appeal is without any merit and is accordingly dismissed, with no order as to costs.

C. V. BHADANG, J.

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