

IN THE HIGH COURT OF BOMBAY AT GOA**APPEAL FROM ORDER NO. 41 OF 2018**

1. Sandeep B. Shetgaonkar,
alias Sandip Bapu Shetgaonkar,
Son of Bapu Shetgaonkar,
aged 38 years, married, driver,
Indian National,
Resident of House no.1116,
Madla-wada, Morjem,
Pernem, Goa. Appellant.

V e r s u s

1. Sanjana S. Shetgaonkar,
daughter of Gurudas Shetye,
Aged 37 years, married, housewife,
Indian National, Resident of
H. NO. 383 Vagali, Oxel, Siolim,
Bardez – Goa. Respondent

Adv. Gautam N. Pednekar for the Appellant.
Adv. Sanman R. Keny U/las for the Respondent.

Coram:- C. V. BHADANG, J.
Date:- 28th February 2019.

Oral Judgment:

Rule, made returnable forthwith. The learned counsel for the respondent waives service. Heard finally by consent of parties.

2. The petitioner, who is the one of the interested parties in the Inventory Proceedings is challenging the order dated 25/6/2018 passed by the Inventory

Court appointing the petitioner as the Head of the Family (HOF). The inventory proceedings are filed by the respondent, who is the estranged wife of the petitioner.

3. The respondent filed an application seeking appointment of the petitioner as the Head of the Family, which application was opposed by the petitioner on various grounds. By the impugned order, the Inventory Court has found that the petitioner has not made out any ground for 'exoneration', as prescribed by law and the petitioner being the son of the deceased Estate Lever is, therefore, appointed as Head of the Family.

4. On hearing the learned counsel for the parties and on perusal of section 376 of the Goa Succession, Special Notaries and Inventory Proceedings Act 2012, (Act, for short), I do find that the Inventory Court has not conducted any inquiry as is contemplated under section 376 of the said Act before appointment of the petitioner as the Head of the Family. There is a serious doubt as to whether a person can be appointed as the Head of the Family against his wish. It is pointed out by the learned counsel for the petitioner that some of the interested parties, including the sister and brother-in-law of the petitioner who are also the heirs of the estate lever have not been joined as interested parties. The Inventory Court is required to take all these aspects

into consideration and particularly as to whether a person can be appointed against his wish, as Head of Family or whether such an office of the administrator can be foisted on any party against his wish. It would thus be appropriate that the Inventory Court reconsiders the issue of the appointment of the Head of Family in the context of the provisions of section 376 of the Act. In the result, the petition is partly allowed. The impugned order is hereby set aside. The Inventory court shall reconsider the application for appointment of the Head of the Family, in the context of the provisions of section 376 of the Act and in accordance with law. The petition is disposed off in the aforesaid terms with no order as to costs.

C. V. BHADANG, J.

ap/-