

Suchitra

IN THE HIGH COURT OF BOMBAY AT GOA

SECOND APPEAL NO.69/2019
WITH
CIVIL APPLICATION NO.167/2019

CAJI MAMAD MOHIDDIN
(DEC) AND 7 ORS.

... APPELLANTS

Versus

KAJI RAZUDDIN ALI
(DELETED AS PER ORDER
DTD. 07/10/2022) AND 4 ORS.

... RESPONDENTS

Mr. S. G. Desai, Senior Advocate with Ms. Shalaka
Shelke, Advocate for the Appellants.

Mr. R. G. Ramani, Senior Advocate with Mr. P. Kakodkar,
Advocate for the Respondents No.3 and 4.

Mr. A. D. Bhobe with Ms. A. Fernandes, Advocates for
Respondent No.5.

CORAM: M. S. SONAK, J.

DATED: 22nd December 2022

P.C.:

1. The appeal is admitted on the following substantial
questions of law:

A) Whether in terms of Article 2158 of the Portuguese Civil Code allotment in partitions proceedings confers ownership title on the allottee of the allotted properties?

B) Whether Regular Civil Appeals no.376/2010 and 377/2010 stood wholly abated on the demise of Canam Bi, original plaintiff no.7 on 01.09/2015 during the pendency of the two first appeals, her heirs not being brought on record by the Appellants in the two Civil Appeals?

C) Whether the impugned Judgment and Decree is vitiated on account of perverse findings including the non-exclusion of oral evidence in terms of Sections 91 to 94 of the Indian Evidence Act, 1972?

2. Learned counsel for the respondents waive service after admission.

3. Insofar as the application for interim relief is concerned, no case is made out for grant of the same. During the pendency of the suit there was no interim relief in operation. The suit was only partly decreed. The Appeal Court has now reversed that decree. The application also has averments which are in general terms.

4. Accordingly, the application for interim relief is dismissed.

M. S. SONAK, J.

SUCHITRA
NANDAN
SINGBAL
Digitally signed by
SUCHITRA NANDAN
SINGBAL
Date: 2022.12.22
16:52:36 +05'30'