

Maria S.

**IN THE HIGH COURT OF BOMBAY AT GOA
APPEAL FROM ORDER NO.14 OF 2023**

Ratnabai alias Aparna Umakant
Nagwekar

... Appellant

Versus

Umakant Shanta Nagwekar
And 12 Ors.

...Respondents

Ms Samiksha Vaigankar, Advocate *Under Legal Aid Scheme for the Petitioner.*

Mr Sudin Usgaonkar, Senior Advocate *with Ms Tanisha Mashelkar, Advocate for Respondents no.4(b) to 4(g), 7, 8, 9 and 12.*

Ms Asmita Tirodkar, Advocate *for Respondent No.11.*

**CORAM:
DATED :**

**PRAKASH D. NAIK, J
11th OCTOBER 2023**

ORDER:

1. The appellant is aggrieved by order dated 16.08.2021 passed by learned Civil Judge Senior Division, Mapusa in Inventory Proceedings no.25/1998/A. Inventory Proceedings bearing No.25/98 were initiated by respondent no.1 upon death of late Smt Krishnabai Datta Porob. The respondent no.2 was appointed head of family. The appellant was interested party no.23. The respondent no.12 is a company. The said respondent moved an intervention application dated 06.12.2016 and sought

to be added as an intervener/interested party to the said proceedings on the ground that respondent no.7, respondent no.7(a), respondent no.7(b), respondent no.7(c), respondent no.7(d), respondent no.7(f) who are the legal heirs of late Krishnabai Datta Porob and also interested parties to the inventory proceedings had sold their rights, interest and title in the estate of late Krishnabai Datta Porob to respondent no.12 vide Sale Deed dated 02.11.2015 of the property known as Verlos Vado or Penha-de-France bearing Survey No.39/1 of Penha De Franca. It was also contended that mortgage loan being the debt of late Krishnabai Datta Porob was repaid by them to the creditor in the inventory proceedings, i.e. Mapusa Urban Cooperative Bank of Goa Ltd. at the instance of respondent no.7, 7(a), 7(b), 7(c), 7(d) and 7(f). The head of the family raised objection to the intervention application dated 06.12.2016 stating that the Sale Deed on the basis of which respondent no.12 sought to be impleaded was under challenge for cancellation. During the pendency of inventory proceedings the property could not have been sold without the consent of head of family.

2. The respondent no.12 filed intervention application dated 01.08.2017 and sought to be added as an intervener on the ground that respondent no.4(b), 4(c), 4(d), 4(e), 4(f), 4(g) and 4(h) who are the heirs of late Krishnabai Datta Porob and also interested parties to the inventory proceedings had sold their rights, interest and title in the estate of late Krishnabai Porob to respondent no.12 vide Sale Deed dated 28.06.2017 of property known as Verlos Vado or Penha-de-France bearing Survey No.39/1 and property known as Virlossa Bhat bearing Survey No.42/2 of Penha-De-Franca. The head of the family also filed objections to application 01.08.2017 vide reply dated 04.09.2017. It was contended that during pendency of inventory proceedings the property could not have been sold without the consent of head of family and interested parties.

3. The learned Civil Judge Senior Division vide order dated 16.08.2021 allowed the application.

4. Respondent no.2 and some of the interested parties filed a review application dated 15.09.2021. The review application was rejected vide order dated 16.08.2021.

5. Learned advocate for the appellant submitted that the impugned order is in conflict with the provisions of The Goa Succession, Special Notaries and Inventory Proceeding Act, 2012. Without considering the validity of the sale deeds the Court allowed the application for intervention by respondent no.12. The Inventory Court failed to consider provisions of Section 395(3) of Goa Succession, Special Notaries and Inventory Proceedings Act, 2012 and committed an error in allowing the application for intervention. The validity of sale deed on the basis of which respondent no.12 sought intervention was challenged through civil suits, thus precluding the respondent no.12 from being interested party until the validity of the instrument was ascertained.

6. Learned Senior Advocate Mr Usgaonkar appearing for some of the respondents submitted that there is no infirmity in the impugned order. The intervener has purchased one fifth undivided rights, title and interest of the party described in the inventory bearing survey no.39/1 of Penha De Franca from interested parties Sunita Madhu Karande, Mahesh Madhu Karande, Vandana Mahesh Karande and others by sale deed dated 02.11.2015. The said intervener had stepped into the

shoes of Mapusa Urban Coopertive Bank Ltd, of Goa and is creditor of the estate of deceased Krishnabai Datta Porob. The intervener had acquired right on the basis of the deeds.

7. The impugned order does not warrant interference. The respondent no.12 filed an application for intervention in the inventory proceedings no.25/1998/A stating that there is estate of late Krishnabai Datta Porob described in the inventory proceedings which is the property known as Verlos Vado or Penha-De-France admeasuring 10,400 sq.mts bearing Survey No.39/1 of Penha-De-Franca. It was further stated that the intervener had purchased one fifth undivided rights, interests and title of the properties described in the inventory proceedings from interested parties and the sale deed dated 02.11.2015 is registered on 03.11.2015. Thus, it is apparent that the interested party had acquired rights, interests and title of the interested parties to the said properties and consequently to the estate of deceased Krishnabai Datta Porob. The respondent no.12 had also stated that the intervener has stepped into the shoes of interested parties and, therefore, they are necessary party and interested party in the inventory proceedings. It was also stated that there was a debt against the estate of the deceased, Smt

Krishnabai Porob, which is a loan with Madgaum Urban Cooperative Bank of Goa Ltd. Intervener paid entire mortgage loan amount of the bank which is a debt of the estate of the deceased. Even on this account, the intervener is a necessary party and interested party in the capacity of the creditor of the estate of the deceased and required to be added in the inventory proceedings as interested party. Cabeça-de-Casal had opposed the application for intervention by filing reply stating that there is already a suit bearing Special Civil Suit No.20/2016 filed before the Civil Court for cancellation of sale deed dated 02.11.2015 and the intervener cannot be permitted to intervene. Krishnabai Porob has left a will which was produced on record. The intervener was aware about pendency of inventory proceedings and ought not to have executed sale deed. The intervener filed another application for impleadment as interested party and creditor under Section 395 of The Goa Succession, Special Notaries and Inventory Proceeding Act, 2012 on 01.08.2017. The said application was also opposed by the respondent. The learned Judge has rightly observed that the intervener should be permitted to intervene. The learned Judge has rightly refused to review the order passed by the Court.

There is no illegality in the impugned order. The appeal is devoid of merits and deserves to be dismissed.

ORDER

(i) Appeal from order no.14 of 2023 is dismissed and disposed of.

(PRAKASH D. NAIK, J.

MARIA SUZANA REBELLO Digitally signed by MARIA SUZANA REBELLO
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