

Andreza

**IN THE HIGH COURT OF BOMBAY AT GOA
MISC. CIVIL APPLICATION NO. 738 OF 2019
IN
WRIT PETITION NO. 275 OF 2019**

Surendra Gajanan Samant	... Applicant
<i>Versus</i>	
Shamsundar Mahadev Samant	...Respondent
Applicant in person	

**CORAM: M. S. SONAK, J
DATED: 21st DECEMBER, 2023**

P.C.

1. Heard Mr. Samant, who appears in person.

2. Mr. Samant is assisted by his son Gajanan Samant. Both of them submit that this Court's Order dated 24.06.2019 deserves to be modified. The Order dated 24.06.2019 reads as follows :

“ Coram:- C. V. BHADANG, J.
Date:- 24th June 2019 ”

P.C.

Heard the petitioner in person. Perused record.

2. The only ground raised by the petitioner, who appears in person, is based on Section 372 of The Goa Succession, Special Notaries and Inventory Proceeding Act, 2012,(Act, for short), which reads thus :

"372. Inventory in the event of dissolution of joint family:-

(1) When a joint family as governed by Decree dated 16.12.1880 is dissolved, the estate may be partitioned by instituting inventory proceeding and the procedure hereafter provided shall be applicable.

(2) The member of the joint family who was in the charge of management of its assets shall be the head of the family.

(3) The general rules that regulate partition among co-heirs shall be applicable to partitions amongst the members of the family.

3. Precisely, the contention is that unless the joint family is dissolved in accordance with the Decree dated 16.12.1880, the Inventory Proceeding is not maintainable.

4. A perusal of the objection raised by the petitioner before the Inventory Court at this stage does not show that there is any statement made that the joint family is not yet dissolved. Thus, the contention cannot be accepted.

5. I have gone through the impugned order and it does not suffer from any infirmity so as to require interference. However, the ground raised on the basis of Section 372 of the Act is kept open to be gone into by the Inventory Court at the final disposal of the Inventory Proceedings.

6. With this, the Writ Petition is dismissed.

C. V. BHADANG,J.”

3. Mr. Samant points out that the ground based upon Section 372 of the Act should have been ordered to be decided by the Inventory Court earlier and not at the stage of final disposal of the Inventory Proceedings. He submits that people who know of

the facts are quite old and, therefore, if the decision on this point is delayed to the stage of final hearing, such parties may not be able to depose properly.

4. The above Order was made on 24.06.2019. Therefore, it is reasonable to presume that Inventory Proceedings must have been advanced considerably. Based on the apprehension now expressed, no case is made out to modify the Order dated 24.06.2019. Though this application is styled as one for modification, in effect, this is seeking review of the Order dated 24.06.2019. No grounds of review are made out.

5. Accordingly, this application is dismissed.

6. The Order does not seriously affect the Applicant's rights. All contentions based on the ground under Section 372 of the Act, have been kept open.

M. S. SONAK, J

ANDREZA PEREIRA
Digitally signed by ANDREZA
PEREIRA
Date: 2023.12.21 17:21:17 +05'30'