

Santosh

IN THE HIGH COURT OF BOMBAY AT GOA

SECOND APPEAL NO.66 OF 2023

THOMAS DIAGO FERNANDES

..... Appellant.

Versus

JACQUELINE FERNANDES

@ JACQUELINE PHILOMENA BAPTIST

AND 5 ORS

.... Respondents.

Mr. Ashwin D. Bhobe with Ms. R. Prazares, Advocates for the Appellant.

Mr. J.E. Coelho Pereira, Senior Advocate with Mr. Vinod Korgaonkar, and Ms Tanvi Parob, Advocates for Respondents No.1 to 3.

CORAM: VALMIKI SA MENEZES, J.

DATED: 19th October 2023

ORAL ORDER

1. This is a second appeal filed against the Judgment and Decree dated 12/8/2022 of the District Judge-1, FTC, Mapusa in Regular Civil Appeal No.99/2019, which upholds a Decree dated 5/9/2019, passed by the Civil Judge, Senior Division at Mapusa in Regular Civil Suit No. 140/2011/A. The suit was filed by the Respondents for a declaration that the Plaintiff Mrs Jacqueline Fernandes and her children Miss Mannuela Fernandes and Master Rinaldo Fernandes were the sole and exclusive heirs of her deceased husband Joseph Diago Fernandes. In the suit, a relief for a declaration was also sought

that the Plaintiffs were the sole, absolute and exclusive owners of the suit property bearing Survey No.306/1 of Village Anjuna. A further relief was sought therein for a declaration that the Deed of Succession dated 17/2/2011, executed by the Defendants before the Sub-Registrar of Bardez, was null and void and that the same be cancelled and for a consequential relief of removal of the name of the Defendant No.1 from the survey records maintained in Form I and XIV.

2. The suit was decreed in toto with all the declaratory reliefs sought being granted on the finding of fact that Plaintiff No.1 Mrs. Jacqueline Fernandes had proved her marriage to Joseph Diago Fernandes by producing a registered marriage certificate and the marriage certificate recording nuptials of her marriage with Joseph Diago Fernandes at the Church of Our Lady of Dolours, at Mumbai. These documents were produced at Exhibits 44 and 45 of the record of the Trial Court. There are concurrent findings of fact recorded on this very issue by the Appellate Court in its Judgment wherein it holds that the Plaintiffs have succeeded in proving not only the marriage, but the succession of the Plaintiffs No.2 and 3 to the suit property, which was purchased originally by the late Joseph Fernandes.

3. Considering that there are concurrent findings of fact on the main issue/controversy in the matter, the substantial questions of law proposed in the memo of appeal, do not arise for determination in this matter.

4. Consequently, the second appeal stands dismissed. No costs.

VALMIKI SA MENEZES, J.

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