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IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.376 OF 2025

MARIA JOSE BINDYA
TELES AND ANR.

... Petitioners.

Versus

ANTONIO FRANCISCO
CARDOSO ALIAS ANTONY
FRANCIS CARDOSO

... Respondent.

Ms. Asmita Tirodkar, Advocate for the Petitioners.

Mr. R.G. Ramani, Senior Advocate with Mr. Pranav Kakodkar
and Mr. Vinayak Nevrekar, Advocates for the Respondent.

CORAM: VALMIKI MENEZES, J.

DATED: 29th September, 2025

ORAL ORDER:

1. Registry to waive office objections and register the matter.
2. The Petitioners have challenged order dated 04.06.2025 passed by the District Court-2, Mapusa in Miscellaneous Civil Appeal No. 123/2024. By the impugned order, the District Court has reversed the order dated 13.09.2024 passed by the Civil Judge Junior Division, 'F' Court at Panaji in Inventory Proceedings No.60/2024, which has upheld the objections at Exhibit C-13 filed by the Interested Parties No. 2 and 3 and who are the Petitioners herein. The objections, which

have been sustained by the order of the Inventory court dated 13.09.2024, are that, even though the Inventory Proceeding has been filed under Clause (b) of Sub-Section 1 of Section 373, (for a declaration that the parties to the inventory are heirs or representatives of the deceased Estate Leaver) the Head of the Family is obliged, under Section 376 of the Goa Succession, Special Notaries and Inventory Proceeding Act, 2012 (“the said Act”), to file a list of assets and all other declarations required to be complied with under the said provision.

3. These proceedings arise under the following circumstances:

- a) An application dated 01.03.2023 was filed by the Respondent No.1 herein under Section 373(1)(b) of the said Act stating that the parents of the Applicant i.e. Adv. Jose Juliao Francisco Peres Cardoso alias Jose Peres Cardoso and Bernadette Maria Angelica Ana Rita Mesquita alias Bernadette M.A.A. R. Mesquita alias Bernadette Mesquita Peres Cardoso alias Bernadette Peres Cardoso alias Bernadette Peres Cardoz, who were deceased, had left, as their heirs and successors, two children, a son(the original Applicant/ Respondent No.1 herein) and a daughter late Lucilia Milagres Lourdes Peres Cardoso. The application also discloses that besides the only two successors to the Estate Leavers, the spouses of the two heirs, namely, Maria

Veronica Bernardina Pimenta alias Veronica Pimenta alias Veronica Cardoso (Respondent No.2 and spouse of Respondent No.1), and Fausto Sebastiao Basilio Teles, who is the deceased husband of late Lucilia, daughter of the Estate Leavers, were also sought to be impleaded as parties to the application, as they had moiety rights in the estate through their spouses who were direct descendants of the Estate Leavers.

- b) The application further states that Lucilia and Fausto had passed away. Their children i.e. grandchildren of the Estate Leavers i.e. Oswald Roy Caetano Teles and Maria Jose Bindiya Teles (Petitioners herein), were also heirs to the estate. Based on these averments, a Judgment and Order was sought in the inventory proceedings to declare that the Estate Leavers, late Jose and Bernadette had left as their only heirs, the Applicant, his wife Maria, and the two children of late Lucilia, Oswald Roy Caetano Teles and Maria Veronica Bernardina Pimenta (Petitioners) as surviving heirs.

There is no partition of the estate belonging to the Estate Leavers sought in this Inventory Proceedings as contemplated under Clause (a) of Sub-Section 1 of Section 373. Inventory Proceedings only seeks a decree of heirship and does not involve partition of assets belonging to the

estate.

- c) The Applicant (Respondent No.1 herein) was appointed as the Head of Family and called upon to file declaration under Section 376 of the Act. In his declaration, which is dated 19.04.2024, the Head of Family, the Applicant/Respondent No.1 herein had filed a declaration stating the dates on which the parents of the Applicant and his sister Lucilia, expired and has declared the names of the heirs to the estate. The following were declared as heirs of the Estate Leavers:
- i. Antonio Francisco Cardoso alias Antony Francis Cardoso alias Antonio Peres Cardoso alias Anton Peres Cardoso alias Antonio Cardoso.
 - ii. Meria Veronica Bernardina Pimenta alias Veronica Pimenta alias Veronica Cardoso.
 - iii. Oswaldo Roy Caetano Teles
 - iv. Maria Jose Bindya Teles.
- d) This declaration, which purports to be under Section 376 of the Act, was objected to by the Petitioners herein i.e. Oswaldo Roy Caetano Teles and Maria Jose Bindya Teles, on the sole ground that, even in inventory proceedings seeking a decree of declaration of heirship (and not partition), the Head of Family is required to disclose the

assets which form part of the estate of the deceased Estate Leavers along with all other details which are found at Clause 7 of Sub-Section 1 of Section 376. According to the Petitioners, the Head of Family is required to state whether the Estate Leavers left a will or a gift deed and to produce the original or certified copy of such document and to state whether the assets are required to be collated, and if so, to give the list of the names of the conferees.

4. After objections were raised, the Applicant has placed, by a response dated 03.08.2024, a copy of a Will dated 02.04.1998 executed by the Estate Leavers, whereby the disposable quota of the estate has been bequeathed to the Applicant, who is otherwise one of the forced heirs and a direct descendant of the Estate Leavers along with late Lucilia, whose children are the Petitioners herein.

5. The Trial Court has upheld the objections and directed the Head of Family to file a fresh Statement on Oath, making all disclosures required under Section 376, which would include the list of assets of the inheritance and to place a declaration of the will made by the Estate Leavers. It is this order that is set aside by the District Court in Appeal (impugned order) holding that where an inventory proceeding is limited to seeking a declaration of heirship, and not for partition of the estates, Section 376 being a procedural provision, the requirement of declaration to be filed by the Head of Family have to

be such as to comply only with the requirements for passing a Judgment and Decree of declaration of a person's heirship. The Appellate Court has further held that there would be no requirement for a declaration to be made by the Head of Family of the assets that comprise the estate of the deceased Estate Leavers, as all that was sought in the inventory was a Decree of declaration of heirship.

It is this interpretation sought to be given to the provision of Section 373 r/w Section 376 of the Act that is called in question in this petition.

6. Section 373 of the Act confers the jurisdiction of an Inventory Court to entertain inventory proceedings which are filed for two distinct purposes. A party may file an inventory proceeding under Sub-Clause (a) of Clause (1) of Section 373 for a partition of the estate of a deceased, or may restrict the inventory proceeding only for seeking a declaration of heirship or of being a representative of the deceased, without seeking partition of the estate or its properties. This kind of declaration of heirship, is governed by Clause (b) of Sub-Clause 1 of Section 373.

7. In the present case, the Petitioners do not dispute that the Petitioners and the Respondent Nos.1 and 2 are the only heirs and successors of the Estate Leavers i.e. Jose Juliao Francisco Peres Cardoso alias Jose Peres Cardoso and Bernadette Maria Angelica Ana Rita Mesquita alias Bernadette M.A.A. R. Mesquita alias Bernadette

Mesquita Peres Cardoso alias Bernadette Peres Cardoso alias Bernadette Peres Cardoz. The will executed by the Estate Leavers dated 02.04.1998, bequeathing the undivided moiety/half share in the estate, in the inheritance, to the Respondent No.1, is also not denied. The will is placed before the Inventory Court, though its certified copy has not been placed before the Court along with a declaration under Clause (iii) of Sub-Section 1 of Section 376. This, perhaps, is the only flaw in the procedure followed by the Head of the family before the Trial Court.

8. Section 376 which forms part of Chapter XXXVI of the Act is procedural in nature. Section 375 of this Chapter specifies how a petition for inventory proceedings is to be commenced, and prescribes the form in which the application is to be filed. Section 376 requires the Court to pass an order of appointment of a Head of Family and for the person appointed to take oath to discharge the duties under the Act. Sub-Section 1 of Section 376 requires a declaration to be given, which is required to contain certain details set out in Clause (i) to Clause (vii) therein.

9. In the present case, the inventory proceedings is restricted to a declaration of heirship, and not to the partition of any asset of the estate. The declaration under Section 376, therefore, keeping in mind that this is a procedural provision, does not require to state the details of every asset in the estate, the value of every asset, and production

of the title documents of each of these assets. The declaration, however, necessarily has to state the names of the forced heirs and whether there is a gift deed in favour of any party, and shall declare the names of the heirs either as forced heirs or through a will or through a gift deed.

10. Section 52 declares the legal succession and how the right of succession devolves on persons. The legal succession devolves on the following persons by preference:

- a) on the descendants,
- b) on the surviving spouse
- c) on the ascendants, subject to the provisions of sub-section (2) of section 72.
- d) on the brothers and sisters and their descendants.
- e) on the collaterals not comprised in clause.
- f) on the State.

This is the line of succession of forced heirs.

11. Where there are Testamentary heirs, besides forced heirs, and a bequest has been made through a will executed by the Estate Leavers, the succession is covered by Chapter XI, where any legatee is also considered a heir to the estate. In a similar manner, where Gift Deeds are executed by the estate Leaver during his lifetime, the donee

under the gift would also be considered an heir to the estate for the purpose of the inventory proceedings.

12. Under Section 346, it is not always necessary for a party seeking declaration of heirship to approach an Inventory Court under Section 373 of the Act, but a party could instead also execute an instrument of declaration of heirship before the Special Notary under Chapter XXVI of the Act, after following the procedure set down therein. Under Section 346, as amended in the year 2024, where a party seeks a declaration of heirship, the documents required to be produced before a Special Notary are specified in Sub-Section 4 thereof which are, a death certificate of the deceased/Estate Leaver, a will or gift, if executed by the Estate Leaver, document to prove the relationship of the heirs to the deceased person and a certified copy of the photo identity as proof of the interested party and all other legal heirs whose names are specified in the application. There is no requirement for the production of a list of assets and the title documents or any of the other declarations that are required to be given under Section 346 such as when an inventory is sought for partition of the estate. The position could not be any different when a declaration is required to be made by the Head of Family in an inventory proceeding which is restricted to seeking a Decree of declaration of heirship, and not for partition of the assets.

13. The interpretation given by the Appellate Court to the

procedural provisions in Section 376 is that the same have to be read in consonance with Section 373 with Clause (b) of Sub-Section 1 of Section 373; the Appellate court has rightly held that the declaration is required to be restricted only to giving a declaration of the details of the Estate Leavers, the will or gift deed that may have been executed by them during their lifetime and the names of the heirs who are either forced heirs or who are testamentary heirs under the will or who are donees under a gift deed and who are also heirs to the estate. There is, therefore, no requirement as correctly held by the Appellate Court for a declaration of the Head of Family to detail out every asset that the estate was comprised of and to furnish title documents as is required under Clause (vi) and (vii) of Sub-Section 1 of Section 376. The only declaration that is required to be given in case a declaration of heirship is sought, is a declaration under Clauses (i) and (v) of the aforementioned provisions. The provision of Section 376 being procedural in nature, as rightly held by the Appellate Court, declaration in the case of seeking a Decree of heirship shall be restricted to Clause (i) to (iv) with no requirement of declaring the assets of the estate of the deceased.

14. The impugned order must, therefore, be confirmed and the view taken by the Appellate Court held to be the correct view. Consequently, the order of the District Court dated 04.06.2025 which has quashed and set aside the order dated 13.09.2024 of the Inventory Court, is upheld and the petition stands dismissed.

15. Since the Head of Family has already filed a declaration dated 19.04.2024, he shall now file a declaration along with a certified copy of the will dated 02.04.1998 executed by the Estate Leavers in compliance with Clause (iii) of Sub-Section 1 of Section 376. There is nothing more thereof that remains to be decided by the Inventory Court except to pass its final Judgment and Decree, based on such declarations and the objections that have been raised by the Petitioners/original Interested Parties No. 2 and 3 before the Inventory Court.

Considering that the Inventory Court has now listed the matter on 12.11.2025, the parties are directed to appear before the Inventory Court on 06.10.2025 after which the Head of Family shall file his declaration with a certified copy of the Will dated 02.04.1998 by 13.10.2025. Thereafter, the Inventory Court shall proceed to pass its Judgment and Decree based on what is on record. The matter shall be disposed of preferably by 30.11.2025.

VALMIKI MENEZES, J.