

2023 SCC OnLine Bom 1695

In the High Court of Bombay at Goa  
(BEFORE M.S. SONAK, J.)

Maria Nanda Sales E Dias and Another ...  
Appellants;  
*Versus*

Orlando Sales and Others ... Respondents.

Appeal From Order No. 12/2019 With Civil Application No. 47/2019

Decided on August 18, 2023

Advocates who appeared in this case :

Mr. F.E. Noronha, with Ms. Ninoshka Dias, Advocates for the Appellants.

Mr. Tarshish Leo Pereira, Advocate for the Respondents.

The Judgment of the Court was delivered by

M.S. SONAK, J.:— Heard Mr. F.E. Noronha, who appears along with Ms. Ninoshka Dias for the Appellants and Mr. T. Pereira for the Respondents.

2. Admit. With the consent of and at the request of the learned Counsel for the parties, the Appeal is taken up for immediate disposal.

3. Appellant No. 1, in terms of the impugned order dated 28/11/2018, has been appointed as the Special Head of the Family under Section 250 of The Goa Succession, Special Notaries and Inventory Proceeding Act, 2012 (said Act) in respect of the immovable properties enlisted under item Nos. 11 and 12 of the list of assets, respectively. This list of assets is dated 29/3/2017 at pages 40 to 49 of the paper book

4. The Appellants' grievance is that the impugned order does not appoint the Appellant as the Special Head of the Family in respect of the contents of the house situated in the immovable property at item No. 12. Mr. Noronha points out that even the contents of the house have been listed under item Nos. 13 to 51 of the list of assets.

5. The Appellants' grievance is also that the Appellant is not appointed as the Special Head of the Family in respect of the locker in the Goa Urban Cooperative Bank Ltd., Cuncolim branch, listed at item No. 10 of the list of assets. Mr. Noronha submits that the key and consequently the control over the said locker is with the Appellant and, therefore, it is only appropriate that the Appellant should be appointed as the Special Head of the Family in respect of this locker and its contents, as well. He submits that the contents of the locker are listed

at item Nos. 52 to 74.

6. Mr. Pereira, learned Counsel for the Respondents submits that the Respondents will have no serious objection about the Appellant being appointed as the Special Head of the Family in respect of the contents of the house situated in item No. 12. He, however, submits that usual terms and conditions should apply to the appointment.

7. Mr. Pereira submits that though the locker key is with the Appellant, it would be appropriate if suitable directions are issued to the Appellant to deposit such locker key with the Court instead of insisting upon appointment as the Special Head of Family.

8. Section 250 of the said Act provides that the co-heirs who, on the date of the opening of the inheritance, were in possession of certain properties of the inheritance and so also the heirs who have to reconstitute gifted properties to the estate, shall be deemed heads of the family in respect of such properties. Accordingly, the inventory Court has appointed the Appellant as the Special Head of the Family in respect of item Nos. 11 and 12. While doing so, the inventory Court should have appointed the Appellant also as the Special Head of the Family in respect of the contents of the house situated in item No. 12 because the principles which apply to the Appellant's appointment as the Special Head of the Family in respect of items No. 11 and 12, will also apply to the contents of the house situated in item No. 12 at least in the peculiar facts of the present case. Such an appointment will, no doubt, have to abide by the usual terms and conditions.

9. Accordingly, the impugned order is modified and the Appellant is appointed as the Special Head of the Family even in respect of the contents of the house in item No. 12, on usual terms and conditions.

10. In so far as item No. 10 i.e. the locker in the Goa Urban Cooperative Bank Ltd. is concerned, again, the Appellant is appointed as the Special Head of the Family in respect of the said locker and the contents of the locker. Such an appointment shall be subject to usual terms and conditions including, in particular, the condition that the Appellant shall not, without the leave of the inventory Court, open the locker. If the Appellant applies for leave to open the locker and the inventory Court considers grant of such a leave, then, the inventory Court must ensure that the opening of the locker is in presence of the Court official (Bailiff, etc.) and the Respondents. The impugned order is modified to this extent, as well.

11. The Appeal and the Civil Application are disposed of by modifying the impugned order in the above terms.

12. There shall be no order for costs.

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