



CNR No.GANG-010008602026

Presented on	18.04.2026		
Registered on	18.04.2026		
Decided on	17.08.2026		
Duration	Year	Months	Days
	-	3	29

**IN THE COURT OF THE ADHOC DISTRICT
JUDGE-1, (FTC) AT MAPUSA**

**(Before Ms Reina S. Fernandes, Adhoc District
Judge-1 FTC- Mapusa)**

Misc Civil Appeal No.33/2026

Mr. Maxie Mascarenhas
Son of late John Mascarenhas
Age 60 years, business

Resident of H.No.3/14-B,
Tivai Waddo,
Calangute, Bardez- Goa

..Appellant

Versus

Mrs. Sabina Silveira
Daughter of Jose Silveira
Age 48 years, Business,
Resident of H.No.3/14-B,
Tivai Waddo,
Calangute, Bardez Goa

..Respondent

Ld. Advocate Shri. S. Phadte present for the appellant

Ld. Advocate Shri.V. Parab present for the respondent.

J U D G M E N T

**(Delivered on this the 17th day of the month of
August, of the year 2026)**

This appeal is filed under Section 451 of The Goa Succession, Special Notaries and Inventory Proceeding Act, 2012 (in short, Inventory Proceeding Act) against the Order dated 15.12.2025 passed by the learned Civil Judge Senior Division at Mapusa (in short, the Ld. Trial Judge) in

Inventory Proceeding No.441/2021/C allowing the objections to additional statement on oath filed by the appellant.

2. The Inventory Proceedings was initiated by the appellant herein pursuant to the decree of dissolution of marriage against the respondent for partition of the assets.

3. The appellant was appointed as the Head of the Family and filed his statement on oath and initial list of assets. The objections on maintainability raised by the respondent were dismissed and the appeal preferred by the respondent before the Hon'ble District Judge was also dismissed.

4. The respondent raised objections to the initial list of assets and in the course of hearing of the objections it was revealed that the respondent has disposed off the property listed at item no.3 by Deed of Gift in favour of their daughter. The appellant therefore filed application dated 01.08.2023 under Section 387(4) and 395 of the Inventory Proceeding Act to implead the donee. Without formally deciding the said application dated 01.08.2023 the Ld.

Trial Judge permitted the appellant to file additional statement on oath and amended the cause title.

5. The respondent filed objections on 18.11.2025 to additional statement on oath. The Ld. Trial Judge allowed the objections vide order dated 15.12.2025 and held that the daughter of the appellant and the respondent namely Swizel Mascarenhas cannot be made interested party in the inventory proceedings.

6. Aggrieved by the impugned order, the appellant has preferred this appeal, inter alia on the following grounds:

i) The impugned Order is bad in law and suffers from total non application of mind to the facts and records of the case.

ii) The impugned Order is passed in a most casual manner without recourse to the records of the case and without any semblance to the law and the procedure on the subject.

iii) The Impugned order is arbitrary and devoid of any sound reasoning.

iv) The Ld. Trial Judge did not appreciate the provisions of Section 387(4) and Section 395 of the Act.

v) The Ld. Trial Judge did not appreciate the law on the subject in as much as whilst passing the impugned Order overlooked the provisions of Section 400 of the Act.

vi) The impugned Order suffers from total non application of mind as whilst passing the impugned Order overlooked that the Additional Settlement on Oath was filed on 02.04.2025 and thereafter the Ld. Trial Judge was pleased to issue process to the donee pursuant to which the donee put up appearance on 30.09.2025 and did not file any application or any statement to drop her.

vii) The Hon'ble Court did not appreciate that there is no procedure for filing objections to statement on oath and if at all such objections were taken it is time barred as per the scheme of the Act.

ix) The Ld. Trial Judge ought to have proceeded under Section 387(4) and ought to have directed the donee to make statement on oath

x) The impugned order is not capable of being implemented

7. Heard Ld. Advocate Shri. S. Phadte for the appellant and Ld. Advocate Shri.V. Parab present for the respondent.

8. I have perused the records and have considered the arguments advanced by the learned counsels. The question before me is “Whether the impugned order calls for any interference in appeal?”

REASONS AND FINDINGS

9. Admittedly, the marriage of the appellant and the respondent has been dissolved by a decree of divorce. The inventory proceedings have been instituted for partition of the assets under Section 368 of the Inventory Proceeding Act. The appellant has been appointed as the Head of the Family. The appellant as the Head of the Family has enlisted four items in the initial list of assets. The respondent filed objections to the list of assets, inter alia contending that item no.1 is gifted by her to their daughter Miss Swizel Mascarenhas vide Deed of Gift dated 22.03.2022.

10. The appellant filed additional statement on oath dated 02.04.2025 stating that Swizel Mascarenhas being in possession of item no.1 is an interested party in the inventory proceedings and that item no.1 is liable for collation. The respondent filed objections to the said additional statement on oath. Vide the impugned order, the Ld. Trial Judge held that the daughter cannot be made interested party in the inventory proceedings.

11. In the present case, the respondent has gifted item no.1 to her daughter. The appellant claims the asset to be the joint property in which he has a right and interest. Although the respondent has filed objections to delete the assets from the inventory proceedings, the said objections have not been adjudicated upon. The item no.1 which is gifted to Swizel Mascarenhas has been enlisted in the initial list of assets in the inventory proceedings. In such circumstances, Swizel Mascarenhas being the donee of item no.1 whose rights and interests are directly effected by the outcome of the inventory proceedings, is required to be impleaded as an interested party. Her presence is necessary

to defend the validity of the gift deed and her claim in respect of the gifted asset and also to enable the Court to determine, after hearing her, whether the gifted property is liable to be collated in the inventory proceedings.

12. Section 387(4) of the Inventory Proceeding Act states that notice shall be issued to the donee, whether he is bound to collate or not, to appear on the date fixed for taking oath that he will discharge his duties as special head of the family in respect of the assets which have been gifted to him.

13. Thus, Section 387(4) contemplates issuance of notice to the donee, irrespective of whether the donee is bound to collate or not. Hence the donee is required to be impleaded as an interested party in the inventory proceedings.

14. Therefore, the impugned order declining to implead the donee as an interested party in the inventory proceedings, cannot be sustained and warrants interference in appeal. Hence the point for determination is answered in the affirmative.

15. In the result, I pass the following:

ORDER

a) The Miscellaneous Civil Appeal is allowed with cost.

b) The impugned order dated 15.12.2025 is quashed and set aside.

c) Swizel Mascarenhas, being the donee of item no.1 of the initial list of assets, shall be impleaded as in interested party in the inventory proceedings only in respect to item no.1. The impleadment shall not confer upon Swizel Mascarenhas any right or interest in the other assets listed in the inventory proceedings.

Pronounced in the open Court.

Proceedings closed.

(Ms Reina S. Fernandes)
Adhoc District Judge-1
(FTC) Mapusa

Sg*