

GASG020031522022



Presented on :04.10.2022
Registered on :06.10.2022
Decided on :30.08.2023
Duration : Years/Months/Days
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**IN THE COURT OF THE ADHOC CIVIL JUDGE SENIOR
DIVISION, IST ADDITIONAL AT MARGAO.**

**(Before Mrs. Sunita A. Gaunekar, Adhoc Civil Judge Senior
Division, Ist Additional, Margao)**

(I/c Civil Judge Senior Division, IInd Addl., Margao).

Regular Inventory Proceeding No.364/2022/II

IN THE MATTER OF INHERITANCE OF THE LATE SHRI.
DIAGO RODRIGUES AND LATE SMT. FILIPA DA SILVA
ALIAS FALECIA DA SILVA ALIAS FELECIANA SILVA, R/O
H. NO.211, GUDI, PARODA, SALCETE, GOA.

1. Shri. Carlos Rodrigues,
s/o late Feliciano Silva
& late Diago Rodrigues,
aged 62 years, married,
Driver, Indian National,
r/o H. No.211, Gudi, Paroda,
Salcete, Goa.

... Applicant/
Head of the Family

AND

2. Mrs. Sapiencia das Dores de Santa Rita Vas
w/o Shri. Carlos Rodrigues,
major of age, married,
housewife, Indian National,
r/o H. No.211, Gudi, Paroda,
Salcete, Goa.

... Interested Party

The Applicant/Head of the Family and the Interested Party
represented by the Learned Advocate Ms. T. Dessai.

J U D G M E N T

**(Delivered on this the 30th day of the month of August of the
year 2023)**

This Final Order shall dispose of the above-mentioned
inventory proceedings under Section 373(1) (b) of The Goa
Succession, Special Notaries and Inventory Proceedings Act, 2012,

which was instituted by the Applicant Shri. Carlos Rodrigues upon the death of his parents late Shri. Diago Rodrigues and late Smt. Filipa da Silva alias Falecia da Silva alias Feleciana Silva, who have expired on 05.09.2003 and 24.01.2013 respectively, leaving behind them, their only son, i.e the Applicant Shri. Carlos Rodrigues and daughter-in-law Mrs. Sapiencia das Dores de Santa Rita Vas, as their sole and universal heirs.

2. It is the case of the Applicant that the deceased have expired on 05.09.2003 and 24.01.2013 respectively, leaving behind them, him and the interested party, as their sole and universal heirs and hence, they are entitled for declaration that they are the legal heirs of the deceased and that since the deceased were the permanent resident of Gudi, Paroda, Salcete, Goa on the date of their death and this Court has jurisdiction to try and decide the present proceedings.

3. The Applicant being the son of the deceased was appointed as the Head of the Family vide Order below Exhibit B-1, on 18.08.2023.

4. On 18.08.2023, the Oath of Office was administered to the Head of the Family at Exh. C-4 and he swore his Statement on Oath at Exh.C-5, declaring therein that the deceased have left behind them, himself and Interested Party as their only legal heirs/successors.

5. The Head of the Family has deposed that besides him and the interested party, the deceased have not left behind them any other heirs.

6. Notice to the Interested Party was waived as the Learned Advocate for the Head of the Family had filed wakalatnama on their behalf at Exh. D-7.

7. The Applicant has produced on record the following documents in support of his case:

1. Death Certificates of the deceased;
2. Birth Certificate of the Applicant;
3. Marriage Certificate of the Applicant and the interested party.

8. The present application is filed by the Applicant under Section 373 (1) sub clause (b) of Goa Succession, Special Notaries and Inventory Proceeding Act, 2012. The said Section provides as under:

1. The court having jurisdiction over the place where the succession opens is competent to entertain inventory proceeding for a (a) partition, (b) declaration of a person as heir or representative of the deceased.

2. The place of the opening of the succession shall be determined follows:-

(i) If the deceased had a permanent residence in the State of Goa, the succession opens at the place of his permanent residence;

(ii) If the deceased did not have a permanent residence in Goa, the succession opens where his immovable properties are situated in Goa. If his immovable properties are situated at different places in Goa, the succession opens where the major part of these properties are situated. Such major part is calculated on the basis of the value of the properties.

(iii) If the immovable properties of the deceased who was governed by this Act are situated partly in Goa and partly outside Goa, the succession opens in Goa irrespective of the value of the properties;

(iv) The succession of a person, who died outside the State of Goa, and he did not have a permanent residence in Goa, nor did he own any immovable properties in Goa but has movables in Goa, opens at the place where major part of the movable assets are located;

(v) If the deceased did not have a permanent residence nor immovable properties in Goa, the succession opens at the place where he died in the State of Goa.

(3) The rule that the Court competent to entertain the inventory proceeding is the Court where the inheritance opens is subject to the exceptions that the court in which the inventory was instituted upon the death of one of the spouses shall have jurisdiction to entertain the petition for inventory which may have to be initiated upon the death of the surviving spouse, unless the marriage is contracted under the regime of absolute separation of assets.

9. Hence, the bare reading of Section 373(1) sub clause (b) of Goa Succession, Special Notaries and Inventory Proceeding Act, 2012 shows that the Court is empowered to entertain the present application filed by the Applicant under Section 373(1) (b) of The Goa Succession, Special Notaries and Inventory Proceedings Act, 2012 for declaring him and the interested party as the heirs of the deceased and for the entitlement of the said declaration, the Applicant has to show that the deceased were the residents of the place where the Succession opens.

10. Perusal of the Death Certificates of the deceased show that they were the permanent resident of Guddi, Paroda, Salcete, Goa, at the time of their death. Perusal of the birth Certificate of the Applicant shows that he is the son of the deceased.

11. Perusal of the Birth Certificate of the Applicant/Head of the Family shows that he is the son of the deceased. Perusal of the Marriage Certificate of the Applicant/Head of the Family and Interested Party shows that they are husband and wife respectively.

12. Hence, vide the said documents, the Applicant/Head of the Family and the interested party have shown that they are the legal heirs/representatives of the deceased.

13. Section 373(1) sub clause (b) of Goa Succession, Special Notaries and Inventory Proceeding Act, 2012 provides for declaration of a person as heir or representative of the deceased. The Applicant/Head of the Family and the interested parties have shown that they are the legal heirs/representative of the deceased as discussed above.

14. Hence, in view of the above, I find that the Applicant/Head of the family and the interested party are entitled for the declaration that they are the legal heirs/representatives of the deceased in view of Section 373(1) sub clause (b) of Goa Succession, Special Notaries and Inventory Proceeding Act, 2012 and hence, pass the following:

ORDER

1. The present inventory proceedings initiated by the Applicant for declaration that he and the interested party are legal heirs/representatives of the deceased stands allowed.

2. It is hereby declared that the Applicant/Head of the family and the interested party are the legal heirs/representatives of the deceased in view of Section 373(1) sub clause (b) of Goa Succession, Special Notaries and Inventory Proceeding Act, 2012.

Proceedings Closed.

Pronounced in Open Court.

(Mrs.Sunita A. Gaunekar)
Adhoc Civil Judge Senior Division,
Ist Addl. Margao.
Civil Judge Senior Division,
IInd Addl. Margao.

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