

IN THE HIGH COURT OF BOMBAY AT GOA.

APPEAL FROM ORDER NO. 64 OF 2002.

Shri Sharad Madan Parshekar,
Laximi Shankar Sadan,
Shop No. 2, Behind
Hanuman Temple, Mapusa.

... Appellant.

Versus

Smt. Calindi Vatsal
Parshekar, Opp. Mapusa
Cabin, Angod, Mapusa.

... Respondent.

Mr. Valmiki Menezes, Advocate for the Appellant.

Mr. S.D. Lotlikar, Senior Advocate with Mr. A.D. Bhobe,
Advocate for the Respondent.

Coram: P.V. HARDAS, J.

Date: 28th November 2002.

ORAL ORDER.

This appeal has been filed against the Order passed by the Civil Judge, Senior Division, Mapusa, dated 5th July 2002, in Inventory Proceedings No. 26/1984/SR, dismissing the review application filed by the present appellant seeking review of the Order of the Court dated 30th June 2000.

2. The facts necessary for decision of the appeal are set out hereunder:-

The learned trial Court by its Order dated 7th October 1996 had directed the interested party, that is, the appellant, to give accounts of the deceased Vatsalabai S. Parsenkar from the date of death of his

father till the date of the said Order, within 3 months from the date of the Order. The interested party/present appellant, however, had failed to submit the accounts within the specified time and, therefore, in view of Article 1014, the Cabeça de Casal rendered the accounts. The present appellant, on 17th December 1998, objected to the accounts submitted by the Cabeça de Casal and the same came to be dismissed by Order dated 30th June 2000. The principal objection of the present appellant/interested party was that the learned trial Court did not take into consideration that in the Special Civil Suit No. 26 of 1976, filed by the Cabeça de Casal, the Court had not granted mesne profits and the respondent herein was, therefore, barred from claiming the said mesne profits in the present Inventory Proceedings, which are, in reality, sought by the submission of the accounts.

3. I have heard Mr. Menezes, the learned counsel appearing for the appellant and Mr. Lotlikar, learned senior counsel appearing for the respondent. I have perused the Order of the learned Civil Judge, Senior Division, Mapusa. The learned Civil Judge, Senior Division, Mapusa, relying on Article 1014 has come to the conclusion that once the interested party/appellant failed to render the accounts within the time limit, the Cabeça de Casal was at liberty to render the said

accounts. The interested party, after submission of the accounts by the Cabeça de Casal, was precluded from contesting the said accounts. The learned trial Court has also come to the conclusion that the accounts rendered by the Cabeça de Casal were within the four corners of Article 1014 of the Portuguese Code of Civil Procedure and, therefore, there was no need to review the said Order. Even otherwise, the mesne profits have been refused to the Cabeça de Casal in the said suit on the ground that no evidence was produced on record about the mesne profits.

4. I have perused the Order of the learned trial Court and, according to me, there is no perversity in the reasoning of the learned trial Court. There is no merit in the Appeal from Order and the same deserves to be dismissed in limine.

5. Appeal from Order is, accordingly, dismissed with no order as to costs.

(P.V. HARDAS)
JUDGE.

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