

# Lakshmi Anil Salgaocar vs Chandana Anil Salgaocar And 2 Ors on 28 May, 2025

A0-28-19,X0B-9-19 & A0-7-25.DOC

2025:BHC-GOA:902

Suchitra

IN THE HIGH COURT OF BOMBAY AT GOA

APPEAL FROM ORDER NO.28/2019

1. MRS. LAKSHMI ANIL SALGAOCAR

Widow of Late Mr Anil Vassudeva Salgaocar,  
Major of age, presently residing at F-Block,  
401-501, Cabo at Landscape Town, Near  
Odxel Village, After Goa International  
Centre, Dona Paula, Panaji - 403004,  
through POA Mr Arjun Anil Salgaocar

2. MR ARJUN ANIL SALGAOCAR

Son of Late Mr Anil Vassudeva Salgaocar,  
Major of age, R/o F-Block, Flat No.402-502,  
Cabo at Landscape Town, Near Odxel  
Village, After Goa International Centre,  
Dona Paula, Panaji - 403004.

... APPELLANTS

Versus

1. MRS CHANDANA ANIL

SALGAOCAR, Daughter of Late  
Mr Anil Vassudeva Salgaocar  
Major of age, R/o Flat No.33,  
Jolly Maker Apt No.III Cufe  
Parade, Mumbai 400005.

2. MR SAMEER ANIL SALGAOCAR

Son of Late Mr Anil Vassudeva Salgaocar  
Major of age, R/o House No.4311, Gogol,  
Fatorda, Margao, Goa 403602.

3. MS. PURNIMA ANIL SALGAOCAR,

Daughter of Late Mr Anil Vassudeva  
Salgaocar Major of age, R/o 212 Maker  
Tower B, Cufe Parade, Mumbai - 400005.

... RESPONDENTS

Mr Nitin Sardessai, Senior Advocate with Ms Gautami Kamat,  
Advocate for the Appellants.  
Respondent No.1 in person.  
Mr F. E. Noronha with Mr Rahul Kamat, Advocates for  
Respondent No.2.  
Mr Gustavo Monteiro, Advocate for Respondent No.3.

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WITH  
CROSS OBJECTIONS NO.9/2019  
IN  
APPEAL FROM ORDER NO.28/2019

CHANDANA ANIL SALGAOCAR  
33, Jolly Maker Apt No.III Cufe  
Parade, Mumbai 400005.

... CROSS-OBJECTOR

IN

1. MRS. LAKSHMI ANIL SALGAOCAR  
Widow of Late Mr Anil Vassudeva Salgaocar,  
Major of age, presently residing at F-Block,  
401-501, Cabo at Landscape Town,  
Near Odxel Village, After Goa International  
Centre, Dona Paula, Panaji - 403004,  
hrough POA Mr Arjun Anil Salgaocar

2. MR ARJUN ANIL SALGAOCAR  
Son of Late Mr Anil Vassudeva Salgaocar,  
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... APPELLANTS

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Daughter of Late Mr Anil Vassudeva Salgaocar  
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Tower B, Cufe Parade, Mumbai - 400005.

... RESPONDENTS

Cross-Objector in person.  
Mr Nitin Sardessai, Senior Advocate with Ms Gautami Kamat,  
Advocate for the Appellants.

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Respondent No.1 in person.  
Mr F. E. Noronha with Mr Rahul Kamat, Advocates for  
Respondent No.2.  
Mr Gustavo Monteiro, Advocate for Respondent No.3.

WITH  
APPEAL FROM ORDER NO.7/2025

MRS. LAKSHMI ANIL SALGAOCAR  
Widow of Late Mr Anil Vassudeva Salgaocar,  
Major of age, presently residing at F-Block,  
401-501, Cabo at Landscape Town,  
Near Odxel Village, After Goa International  
Centre, Dona Paula, Panaji - 403004,  
hrough POA Mr Arjun Anil Salgaocar

... APPELLANT

Versus

1. MRS CHANDANA ANIL SALGAOCAR,  
Daughter of Late Mr Anil Vassudeva Salgaocar  
Major of age, R/o Flat No.33,  
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Dona Paula, Panaji - 403004.

... RESPONDENTS

Mr Nitin Sardessai, Senior Advocate with Ms Gautami Kamat,  
Advocate for the Appellants.  
Respondent No.1 in person.  
Mr F. E. Noronha with Mr Rahul Kamat, Advocates for  
Respondent No.2.

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Mr Gustavo Monteiro, Advocate for Respondent No.3.

CORAM: VALMIKI MENEZES, J.

Reserved on: 6th MAY 2025  
Pronounced on: 28th MAY 2025

JUDGMENT :

1. Heard learned counsel for the respective parties. By consent of all the parties to the above appeals/cross objections, all these appeals/cross objections are disposed of by this common judgment, at the stage of admission. The above appeals/cross objection arise from an Order dated 03.07.2018, Order dated 26.02.2019 and from an Order dated 03.02.2024 passed in Inventory Proceeding No.78/2016/B before the Court of the Civil Judge, Senior Division at Panaji.

2. The facts required to be considered to decide the present appeals/cross objection are as under:-

(a) The estate leaver Anil Vasudeva Salgaocar expired on 01.01.2016 in Singapore, leaving as his moiety holder, his widow Mrs Lakshmi Anil Salgaocar (appellant no.1 in Appeal From Order No.28/2019) and four children as heirs to the estate; the four children are Mr Sameer Anil Salgaocar (respondent no.2 in AO 28/2019), Ms Chandana Anil Salgaocar (respondent no.1 in AO 28/2019 and Cross-Objector in AO 28/2019), Ms Purnima Anil Salgaocar (respondent no.3 in AO 28/2019) and Mr Arjun Anil Salgaocar (originally respondent no.4, later transposed as appellant no.2 as attorney of appellant no.1, in AO 28/2019).

28th May 2025 AO-28-19,XOB-9-19 & AO-7-25.DOC For brevity, the parties shall be referred to by their first name in this judgment.

It is not in dispute that Anil was married to Lakshmi at Goa, with their marriage being registered in accordance with the provisions of the Portuguese Civil Code of 1867 (Code) and are governed inter se by the provisions of that Code. It is also not in dispute that Anil, by virtue of his birth in Goa, was governed by the Code, and his estate, which consists of properties/assets, in the State of Goa, in

other States in India and overseas would be governed by the provisions of the Code.

(b) It is also not in dispute that Chandana filed on 30.06.2016 a Case seeking Letters Of Administration to distribute the estate of late Anil which was numbered as Case No.HCF/S1/2017 before the Family Justice Courts in the Republic of Singapore. Initially, Chandana sought to be appointed as Administratrix but subsequently withdrew her application, and in that proceeding, Anil's wife Lakshmi was granted Letters of Administration and was appointed Administratrix by the Family Justice Courts in the Republic of Singapore on 03.07.2017.

(c) In the meanwhile, Chandana also filed on 28.07.2016 an Inventory Proceeding bearing No.78/2016/B before the Court of the Civil Judge, Senior Division at Panaji seeking distribution of the estate of late Anil Salgaocar. In the Inventory Proceeding, since Lakshmi, was the spouse and moiety holder of Anil, she was appointed as Head of the Family on 20.10.2016. On 06.05.2017, Lakshmi, as Head of the Family filed a Declaration 28th May 2025 AO-28-19,XOB-9-19 & AO-7-25.DOC on Oath before the Inventory Court. This was in compliance with the provisions of Section 376 of the Goa Succession, Special Notaries and Inventory Proceeding Act, 2012 (Goa Succession Act). However, the Head of the Family has not filed any Initial List of Assets in terms of Section 399 of the Goa Succession Act till date.

(d) On 15.02.2018, the Head of Family, Lakshmi, filed an application to stay the inventory proceedings which is at Exh.D- 33 of the file of the Inventory Court; this application claimed that the Singapore Court, by its order of 03.07.2017 had appointed Lakshmi as the Administratrix and granted her Letters of Administration of the estate of late Anil. The application further states that the Singapore Court had dismissed Chandana's application for appointment as Administratrix after she withdrew the same and in September 2017, Lakshmi was granted the Letters of Administration, pursuant to which she initiated the process of ascertaining complete details of the estate of Anil situated outside India, which were under litigation. The application states that all these proceedings were within the knowledge of Chandana.

The application for stay of the inventory proceedings further states that Anil was governed by the Code of 1867, being born in Goa and according to the principle of Unity of Inheritance under that Code, the entire estate of Anil should be dealt with, in its final division at one place. Lakshmi further stated that without collating all the assets outside the State of Goa, an inventory proceeding, overlooking such assets would 28th May 2025 AO-28-19,XOB-9-19 & AO-7-25.DOC suffer from serious infirmity and would be incapable of rectification at a later date. She further stated that in view of her being in the process of collating these assets, the inventory proceedings be stayed sine die with liberty approach the Inventory Court after having enlisted and identified all assets located outside the State of Goa.

(e) The application for stay of the inventory proceeding was opposed by Chandana through a reply dated 05.04.2018, in which the following averments are made:-

(i) The application is not maintainable, both, under the Code nor under the Goa Succession Act;

(ii) the application has been filed as a dilatory tactic to delay the expeditious disposal of the proceedings; that prior to this application, vide order dated 20.10.2016 Lakshmi was directed by the Court to file her Statement on Oath which she failed to do, pursuant to which Chandana was compelled to file application at Exh.25 for her removal as Head of Family. The Court, by its order of 04.05.2017 directed Lakshmi, as a last chance to file the Statement on Oath, failing which application at Exh.25 would be deemed to have been granted. The Statement on Oath was filed on 06.05.2017;

that thereafter Lakshmi had also not complied with an order of 06.05.2017 whereby she was directed to publish a notice to unknown legatees. That Lakshmi had also not on 28th May 2025 AO-28-19,XOB-9-19 & AO-7-25.DOC filed the List of Assets in compliance with the mandate of legal obligations cast upon her as Head of the Family;

(iii) that since Lakshmi has also been appointed as Administratrix by the Singapore Court, the assets located in Singapore are being administered according to Singapore Law, and has filed a Statement of Oath and a Statement of Assets as per Singapore Law; that both proceedings, in Goa and Singapore are proceeding simultaneously;

(iv) that Anil was governed by the Code and by the Goa Succession Act and the Inventory Court has jurisdiction to open succession as he had immovable and movable properties in and outside Goa; that Anil is also governed by Singapore Law as he was domiciled in Singapore.

(f ) A rejoinder was filed by Lakshmi on 03.05.2018 wherein she denies that the deceased Anil was governed by Singapore Law. She states that the estate of Anil has to be partitioned under a single law. She states that since deceased Anil was a Goan, all his estate, wherever it be situated, is required to be dealt with by the law applicable to Goa under the concept of Unity of Inheritance.

(g) the Inventory Court, by the impugned order dated 03.07.2018 dismissed the application at Exh.D-33 filed by Lakshmi for stay of the inventory proceeding, and directed Lakshmi to file the List of Assets within thirty days of passing of the order.

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(h) Lakshmi then filed an application for review/ reconsideration of the order of 03.07.2018, at Exh.D-40 of the record of the Inventory Court. His application was filed, inter alia, on the following grounds:-

(i) that the Court held that deceased Anil was governed by the Code of 1867, being of Goan origin, but, inconsistent with this finding, has also held that the Estate situated at Singapore cannot be administered in accordance with the law applicable to the State of Goa; that this finding is contrary to the provisions of Section 8 of the Goa Act, 2012, which embodies the principle of Universality of Succession.

(ii) hat there are two simultaneous succession proceedings going on before two different fora, one in Goa, and the other in Singapore is an error on the face of the record. the main contention of the review applicant for staying the proceeding was that it was not possible, in view of the proceedings in Singapore, to give a definite List of Assets, in compliance with the provisions of the Goa Succession Act, 2012.

(iii) hat the consequence of giving a fraudulent description of an asset or fraudulently concealing of an asset/liability or document in terms of Sections 256 to 258 r/w. Sections 380 to 382 of the Goa Succession Act as directed by the order of 03.07.2018 will render the review 28th May 2025 AO-28-19,XOB-9-19 & AO-7-25.DOC applicant to suffer damages, injury and penalty which could be imposed in accordance with these provisions.

(iv) hat according to the Goan law as also Singapore law, there can only be one succession of a deceased person, based upon his origin and domicile, and there cannot be two simultaneous succession proceedings before two different fora in different jurisdictions; hat the inventory proceeding is the only proceeding for succession of the estate of late Anil, wherever the properties in his estate may be situated, in India or overseas, and the entire estate, irrespective of where it is situated, would have to be distributed in that proceeding.

(i) A reply came to be filed by Chandana on 27.08.2018, opposing the application for review mainly on the following grounds:-

(i) the application was not maintainable for reasons that the power of review under the Goa Succession Act is on specific grounds stated in Section 448, which were not available to the applicant; Section 458 of the Goa Succession Act having specifically barred the applicability of the Code of Civil Procedure, 1908 to Inventory Proceedings, the power of review under CPC was also not conferred upon Inventory Court for it to exercise review jurisdiction on grounds stated in the Civil Procedure Code.

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(ii) hat an application for review is not an appeal in disguise. hat the application for review contains deliberate and misleading submissions regarding applicability of the law; According to the submission of Chandana, in her reply, Universality of Succession applies to assets in India alone, more so since Lakshmi has been appointed as Administratrix in parallel proceedings pending for the administration of the assets of the deceased Anil, in Singapore.

(j) the Inventory Court dismissed the application for review by impugned order dated 26.02.2019. Whilst dismissing the application, the Inventory Court felt that it had the power of review under Section 448 of the Goa Succession Act but however declined to review its order on grounds that there was no error apparent and that the Court had rightly held that the Inventory Court cannot

adjudicate any dispute relating to the assets of the deceased Anil, situated in Singapore, in view of the grant of Letters of Administration by the Singapore Law, in favour of the Head of the Family Lakshmi.

(k) After Appeal from Order No.28/2019 with Civil Application No.86/2019 was filed before this Court, this Court, by its order of 29.03.2019 granted a stay of the operation of impugned orders dated 03.07.2018 and 26.02.2019 and stayed further proceedings before the Inventory Court.

(l) Chandana filed Cross-Objections to Appeal from order No.28/2019 before this Court on 27.06.2019 in which she 28th May 2025 AO-28-19,XOB-9-19 & AO-7-25.DOC challenged the review order of the Inventory Court dated 26.02.2019, inter alia, on the ground that the application for review was not maintainable under the Goa Succession Act in terms of Section 448 thereof; She contended that the power of review was not an inherent power, and the same not having been conferred by the Goa Succession Act, which does not extend the power of review under Section 114 CPC to an Inventory Court, the order of 27.06.2019 was required to be set aside on that ground alone.

(m) Chandana simultaneously filed on 27.06.2019, an affidavit in reply in Appeal from Order No.28/2019 opposing the appeal, inter alia, based on the following contentions:-

(i) that Lakshmi had been granted Letters of Administration pursuant to an application made by her before the competent Court in Singapore and that she had filed an oath to administer the estate and account for the same, which statutorily bound her to administer the estate of Anil in Singapore under the provisions of the Singapore Law. that the overseas estate consists of shares in companies and bank accounts, which are well within the knowledge of Lakshmi.

(ii) that she (Chandana) is unaware of the status of the ongoing litigations overseas, with the exception of those foreign judgments and orders involving Lakshmi as Administratrix of the estate of the estate leaver rendered by 28th May 2025 AO-28-19,XOB-9-19 & AO-7-25.DOC the Singapore and British Virgin Island Courts and which are available on the internet.

(iii) that that Appellants have no intentions of settling the matter considering that when the matter was referred for mediation, Arjun (Appellant No. 2) filed an application for stay of the mediation proceedings. Chandana further denies to have entered into mediation and settled the matter in Singapore or having pressured Lakshmi to accept terms and conditions put forth by her.

(iv) that the pendency of the proceedings before the Singapore Court hold no bearing on the inventory proceedings in Goa considering that the proceedings in Singapore are governed by the provisions of Singapore Law.



(v) hat Goa succession Act does not extend to the overseas estate of the estate-leaver. hat the principle of unity of inheritance under Section 8(3) of the Goa Succession Act has to be read with Section 1(2) of the Goa Succession Act which provides that the Act shall extend to the whole State of Goa, and cannot, in any event, extend to the overseas estate of the estate-leaver which is governed by foreign jurisdictions.

(n) While Appeal from order No.28/2019 was pending before this Court, Purnima respondent no.3 in AO No.28/2019 (and appellant in AO No.7/2025) iled an application dated 14.10.2023, which is Exh.D-45 before the Inventory Court, 28th May 2025 AO-28-19,XOB-9-19 & AO-7-25.DOC seeking a direction to the Head of Family Lakshmi, to comply with order dated 03.07.2018. his application was based upon the submission that the Supreme Court, in Asian Resurfacing of Road Agency Pvt. Ltd. v/s. Central Bank of Investigation -

(2018) 16 SCC 299 had directed that any stay granted by a higher court for proceeding of a lower court, would end on expiry of six months from the date of such order, unless similar extension was granted by speaking order. According to Purnima, the order granting stay of the proceedings, of this Court dated 29.03.2019 stood expired, in view of the direction of the Supreme Court by 28.09.2019, as no extension was sought before this Court, hence directions were sought from the Inventory Court to compel Lakshmi to ile a List of Assets of the estate of Anil.

Lakshmi opposed the application, which was however granted by the Inventory Court on 03.02.2024 holding that the order of stay of the proceedings by this Court on 01.04.2019, stood automatically vacated in terms of the Judgment in Asian Resurfacing (supra).

(o) he order dated 03.02.2024 of the Inventory Court, which in terms contemplated continuation of the inventory proceedings, on the assumption that the stay order of this Court stood automatically vacated, was challenged by Lakshmi in AO No.7/2025. he main ground for challenge in that appeal is that the view taken by the Supreme Court in Asian Resurfacing (supra), having been referred to a Larger Bench, was held to be a 28th May 2025 AO-28-19,XOB-9-19 & AO-7-25.DOC wrong view in High Court Bar Association, Allahabad v/s. State of U.P. - (2024) 6 SCC 267.

#### SUBMISSIONS:

In addition to the oral submissions of the parties, written submissions also came to be iled.

3. Shri Nitin Sardesai, learned Senior Advocate appearing for the appellants has advanced the following submissions:

(i) In AO No.7/2025, it was submitted that in view of the law laid down by the Supreme Court in a Reference of the view taken in Asian Resurfacing (supra), a Larger Bench of the Supreme Court in High Court Bar Association, Allahabad (supra) held that the earlier view was incorrect, the application at Exh.D-45 for considering

the interim order of stay to be vacated, was contrary to this Judgment. It was submitted that the said order is therefore to be quashed and set aside.

(ii) hat the Inventory Court ought to have restricted itself, while passing the impugned order dated 03.07.2018 to the grounds stated in the application at Exh.D-33 for seeking a stay of the inventory proceeding. Instead of restricting itself to whether grounds under Article 284 of the Portuguese Civil Procedure Code for stay of the inventory proceedings had been made out, the Inventory Court has embarked on giving findings that the estate of deceased Anil situated at Singapore cannot be administered in accordance with the law applicable to the State of Goa, and vice versa. He further submits that once the Court had 28th May 2025 AO-28-19,XOB-9-19 & AO-7-25.DOC concluded that late Anil was governed by the Civil Code of 1867, the concept of the Unity of Estate would necessitate that all his assets and liabilities, wherever they be, including those outside India, would be liable for allotment under the inventory proceeding. He submits that the Court has committed an error in holding that grounds, as stated in the application, had not been made out for stay of the inventory proceeding; It is his submission that Lakshmi had clearly stated in her application that she was in the process of ascertaining complete details of the estate of late Anil, which were under various litigations and disputed trust assets, before various fora. these disputed assets and litigations, would directly affect the outcome of the inventory proceeding, and for that reason a case had been made out for stay of the inventory proceeding until some clarity could be arrived at in the various litigations and disputes.

(iii) It was further submitted that the Head of the Family being still in the process of collating information and details of the assets, liabilities and litigations in Singapore and elsewhere, if she were to file a truncated list of assets before the Inventory Court which might lack in details as are required by Section 379 r/w.

Section 399 of the Goa Succession Act, there is every possibility of the other heirs may allege as provided in Section 380 of this Act that assets forming part of the inheritance may have been left out or concealed; the Head of Family therefore apprehends that on this basis, under Section 381 of that Act, the consequence of concealing may result in forfeiture of the right to such assets or render the Head of Family liable for damages. his, according to the applicant is a justification for staying the inventory 28th May 2025 AO-28-19,XOB-9-19 & AO-7-25.DOC proceedings until all assets and liabilities of the estate of late Anil are discovered or determined.

4. Chandana - Respondent No.1 made the following submissions in support of her case:

(i) hat for this Court to arrive at a finding that there exists a justifiable reason to stay the Inventory Proceedings, it is necessary for the Petitioner to state the nature of such pending proceedings and the manner in which the same is prejudicial to the inventory proceedings.

(ii) hat about nine years have elapsed since the filing of the present inventory proceedings on 28.07.2016; Lakshmi has not filed the statement of assets/liabilities of the estate leaver inspite of being aware of the particulars of such assets, given that she has been representing in and defending litigations on behalf of the 'Estate of Late A V Salgaocar'. It is a prerequisite for the Cabesa de Casal to file a statement of assets while presenting an inventory application under Section 375(vii) of the Goa Succession Act. The Cabesa de Casal is further to mandatorily file accounts of the assets annually under Section 379 of the Goa Succession Act.

(iv) Assuming that the 'prejudicial case' refers to the proceedings in Suit No. 821 of 2015 initiated by the estate leaver before the Singapore High Court against one Darsan Jhaveri, Chandana submits that the same was decreed by the Singapore High Court by a judgment and order dated 28.02.2023, declaring that Darsan Jhaveri along with defendant nos. 4 to 14 28th May 2025 AO-28-19,XOB-9-19 & AO-7-25.DOC therein hold trust assets (defined in para 253 of the said judgment as shares in ten companies in the British Virgin Islands and Singapore) on trust for the estate leaver. hat Defendant No. 1 therein had filed Civil Appeal No. 88 of 2023, which was dismissed on 24.06.2024 and that Lakshmi has filed execution proceedings in Singapore.

(v) hat considering that there are no proceedings, prejudicial or otherwise, pending in Singapore, the stay be vacated and the Cabesa de Casal be directed to file the statement of assets before the Inventory Court.

(vi) On the Cross-Objections in challenge to the review order, she has submitted that the Inventory Court has no power to review its order in terms of the provisions of the CPC, they having not been specifically conferred upon under the Goa Succession Act. She further submits that there was no case made out for review of the impugned order in terms of Section 448 of the Goa Succession Act. She relies upon the following case law to contend that the review application ought to have been dismissed as not maintainable:

a) Ramlal & Ors. v/s. Rewa Coalfields Ltd., AIR 1962 SC

361.

b) Ram Rup Agrahri & Ors. v/s. Naik Ram, AIR 1926 All

252.

c) Sheshiri Narayan Kamat & Ors. v/s. Venkatesh Laxman Kamat & Ors., AIR 1927 Bom 221.

d) Pundlik v/s. Achut, 1893 ILR, Volume XVII, Pg.No.

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- e) Ashanulla v/s. he Collector of Dacca & Ors., 1888 ILR 15 Cal. 242.
- f) Patel Narshi hakershi v/s. Pradymansinghji Arjnsinghji, AIR 1970 SC 1273 (Pr 4).
- g) Kalabharati Advertising v/s. Hemant Vimalnath Narichania, (2010) 9 SCC 437.
- h) Tamil Nadu Electricity Board & Anr. v/s. N. Raju Reddiar & Anr., (1997) 9 SC 736.

5. Shri F. E. Noronha, learned advocate representing Respondent No. 2 submitted as under:

(i) hat the Singapore Law mandates settling the liabilities before initiating distribution of assets. Consequently, Lakshmi is in the process of settling and clearing the liabilities of the estate leaver at Singapore.

(ii) he Letters of Administration have been granted to Lakshmi by the Singapore Court. It is claimed that in Singapore, at the instance of the Judge, the parties mediated and settled the matter as per the terms and conditions put forth by Chandana, which Lakshmi was pressurized to accept so that the proceedings at Singapore could continue to inality and the proceedings at Goa could be continued.

(iii) hat the inventory proceeding initiated before the Inventory Court in Goa is subject to the outcome of the proceedings before the Singapore Court, based on the Principal of Unity of Inheritance or Principal of Universality under Section 8 of the Goa Succession Act.

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(iv) hat the Inventory Proceedings No. 78/2016/B are the only proceedings initiated for Inventorying and Partitioning of the estate, therefore the outcome of the overseas proceedings would have to be taken into consideration in the said inventory proceedings.

(v) Shri F. E. Noronha, advocate for respondent no.2 has relied upon the following judgements/commentary:

a) Prof. Jose Alberto Dos Reis, Comentario ao Codigo Processo Civil, Vol. 3, Pg. 277- Commentary to Article 284 of Portuguese Civil Procedure Code.

b) Boletim do Ministerio Da Justica, No. 36- May-1953.

c) No. 16, January 1950, Boletim Do Ministerio Da Ivstica.

d) No. 6, May 1948, Boletim Do Ministerio Da Ivstica.

e) Jose Paulo Coutinho v/s. Maria Luiza Valentina Pereira & Anr. - (2019) 20 SCC 85 On similar lines, Advocate Gustavo Monteiro appearing for respondent no.3 supports the contention that the principle of Unity of Inheritance under Section 8 of the Goa Succession Act would require that all assets including those which are overseas are to be enlisted including the liabilities; He however submits that the application for stay of the inventory proceedings only states that the estate is embroiled in litigation, but the Head of Family has not furnished any list of pending litigations or the amounts being claimed in such litigations. In other words, the main 28th May 2025 AO-28-19,XOB-9-19 & AO-7-25.DOC submission is that the application does not contain sufficient pleadings to substantiate the invocation of powers under Article 248 of the Portuguese Code of Civil Procedure.

6. Before deciding the controversy in AO No.28/2019 and Cross-Objections No.9/2019, I will deal with the challenge thrown in AO No.7/2025 to Order dated 03.02.2024, considering the stay order of this Court to have been vacated and the Inventory Court to proceed with the case. As on the date the impugned order dated 03.02.2024 is passed, the Supreme Court, Asian Resurfacing (supra) had held as under:-

"35. In cases where stay is granted in future, the same will end on expiry of six months from the date of such order unless similar extension is granted by a speaking order. The speaking order must show that the case was of such exceptional nature that continuing the stay was more important than having the trial finalized. The trial Court where order of stay of civil or criminal proceedings is produced, may fix a date not beyond six months of the order of stay so that on expiry of period of stay, proceedings can commence unless order of extension of stay is produced.

36. In view of the above, situation of proceedings remaining pending for long on account of stay needs to be remedied. Remedy is required not only for corruption cases but for all civil and criminal cases where on account of stay, civil and criminal proceedings are held up. At times, proceedings are adjourned sine die on account of stay. Even after stay is vacated, 28th May 2025 AO-28-19,XOB-9-19 & AO-7-25.DOC intimation is not received and proceedings are not taken up. In an attempt to remedy this situation, we consider it appropriate to direct that in all pending cases where stay against proceedings of a civil or criminal trial is operating, the same will come to an end on expiry of six months from today unless in an exceptional case by a speaking order such stay is extended. In cases where stay is granted in future, the same will end on expiry of six months from the date of such order unless similar extension is granted by a speaking order. The speaking order must show that the case was of such exceptional nature that continuing the stay was more important than having the trial finalized. The trial court where order of stay of civil or criminal proceedings is produced, may fix a date not beyond six months of the order of stay so that on expiry of period of stay,

proceedings can commence unless order of extension of stay is produced.

37. hus, we declare the law to be that order framing charge is not purely an interlocutory order nor a inal order. Jurisdiction of the High Court is not barred irrespective of the label of a petition, be it under Sections 397 or 482 CrPC or Article 227 of the Constitution. However, the said jurisdiction is to be exercised consistent with the legislative policy to ensure expeditious disposal of a trial without the same being in any manner hampered. hus considered, the challenge to an order of charge should be entertained in a rarest of rare case only to correct a patent error of jurisdiction and not to reappreciate the matter. Even where such challenge is entertained and stay is granted, the 28th May 2025 AO-28-19,XOB-9-19 & AO-7-25.DOC matter must be decided on day-to-day basis so that stay does not operate for an unduly long period. hough no mandatory time-limit may be ixed, the decision may not exceed two-three months normally. If it remains pending longer, duration of stay should not exceed six months, unless extension is granted by a speciic speaking order, as already indicated. Mandate of speedy justice applies to the PC Act cases as well as other cases where at trial stage proceedings are stayed by the higher court i.e. the High Court or a court below the High Court, as the case may be. In all pending matters before the High Courts or other courts relating to the PC Act or all other civil or criminal cases, where stay of proceedings in a pending trial is operating, stay will automatically lapse after six months from today unless extended by a speaking order on the above parameters. Same course may also be adopted by civil and criminal appellate/ Revisional Courts under the jurisdiction of the High Courts. he trial courts may, on expiry of the above period, resume the proceedings without waiting for any other intimation unless express order extending stay is produced."

7. Subsequently, the Supreme Court, in High Court Bar Association, Allahabad (supra), on an order of Reference made to a Larger Bench decided the correctness of the view taken in paragraphs 36 and 37 of Asian Resurfacing (supra) and has held as under:

"46. Hence, with greatest respect to the Bench which decided the case, we are unable to concur with the directions issued in paras 36 and 37 of 28th May 2025 AO-28-19,XOB-9-19 & AO-7-25.DOC the decision in Asian Resurfacing. We hold that there cannot be automatic vacation of stay granted by the High Court. We do not approve the direction issued to decide all the cases in which an interim stay has been granted on a day-to-day basis within a time-frame. We hold that such blanket directions cannot be issued in the exercise of the jurisdiction under Article 142 of the Constitution of India. We answer both the questions framed in para 7 above in the negative."

8. he Judgment in High Court Bar Association, Allahabad (supra), was rendered on 29.02.2024 a few days after the Inventory Court, relying upon Asian Resurfacing (supra) held that this Court's order of stay of the inventory proceeding dated 29.03.2019 stood vacated. It is trite law that a declaration of what is the state of a law by the Supreme Court would always relate back. In view of the observations made by the Supreme Court in paragraphs 37 and 38 of High Court Bar

Association, Allahabad (supra), the impugned order dated 03.02.2024 would necessarily have to be quashed and set aside. the position of law, as declared by the Supreme Court in High Court Bar Association, Allahabad (supra), would be that all orders of stay of proceedings or any other judgment or order would continue, in ordinary course, to be in force and would not automatically expire by reason of lapse of time. For the aforementioned reason, Appeal from Order No.7/2025 is allowed and impugned order dated 03.02.2024 stands quashed and set aside.

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9. the next question to be decided in Appeal from Order No.28/2019 is whether the impugned order dated 03.07.2018 (refusing to stay the inventory proceeding) and impugned order dated 26.02.2019 (rejecting review of order dated 03.07.2018) can be sustained for reasons stated therein.

10. the appellant Lakshmi has filed her application at Exh. D- 33 for stay of the inventory proceedings, though not having quoted any specific provision of law in the application, obviously under Article 284 of the Portuguese Civil Procedure Code, 1939. As on the date of demise of Anil on 01.01.2016, the Goa Succession Act was not in force and the inventory proceeding was instituted on 28.07.2016 under the provisions of the Portuguese Civil Procedure Code, still in vogue in the State of Goa, in so far as inventory proceedings are concerned. the application for stay of the proceedings i.e. Exh.D-33 was filed on 15.02.2018. the Goa Succession Act came into force on 21.12.2016, and in terms of Section 460 thereof, which is the Repeal and Savings Clause, from the date this Act came into force, all provisions of laws in force corresponding to any provisions of the Goa Succession Act stood repealed. there is no provision under the Goa Succession Act which empowers an Inventory Court to stay the proceedings on the ground stated under Article 284 of the Portuguese Civil Procedure Code, 1939. there is therefore no corresponding provision in the new enactment to Article 284, which leads me to conclude that Article 284 of the Portuguese Civil Procedure Code, 1939 continues to empower an Inventory Court to stay the proceedings, if grounds stated in that provision are made out.

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11. Article 284 of the Portuguese Civil Procedure Code, 1939 as translated into English reads thus:-

"Article 284 - Stay by Judge - the judge may order stay where the decision of the case is dependent on the judgment in another case already filed and when he is of the view that there is another ground to justify the stay."

12. A plain reading of this provision would empower the Inventory Court to stay the inventory proceedings only where grounds have been made out that a judgment in another pending case would directly affect the outcome of decision in the inventory proceeding. thus, to make out a case for stay of an inventory proceeding under Article 284 of the Portuguese Civil Procedure Code, 1939, the application seeking such stay would be required to plead all material particulars and details of such pending proceeding whose outcome would directly affect the decision in the inventory proceeding. this would also mean that the application, apart from containing details of the pending case and how

the decision in the inventory proceeding will be affected by the outcome of such pending case, would have to be pleaded, sufficient documentary proof and such other material would necessarily have to be filed with such application to enable the Inventory Court to arrive at a just decision, as to whether its decision in the inventory proceeding would be materially affected by the decision in the pending case.

13. the short question that fell for determination therefore, before the Inventory Court, was whether the appellant Lakshmi 28th May 2025 AO-28-19,XOB-9-19 & AO-7-25.DOC had sufficiently pleaded and produced material before it to invoke its jurisdiction under Article 284 of the Portuguese Civil Procedure Code, 1939 to arrive at a decision that the decision in the inventory proceeding could be materially affected by the decision in a pending case.

14. All the parties before the Inventory Court, in this case proceeded on the basis that since late Anil was born in Goa and was married to Lakshmi in Goa, the provisions of the Civil Code of 1867 would apply to his estate. the parties have also proceeded on the basis that, considering the provisions of Section 1 of the Goa Succession Act, the inventory proceeding would follow the procedure laid down in the Goa Succession Act for the allotment of the estate of late Anil to his moiety holder Lakshmi and his heirs, Chandana, Sameer, Purnima and Arjun.

15. Sub-section (3) of Section 8 of the Goa Succession Act declares that succession of a person covered under the Act, is universal and may be partitioned in Goa, wherever the properties, movable or immovable are situated. this would be subject to the provisions of Section 373 of that Act which determines which Court will have jurisdiction over the place where the succession opens, to entertain the inventory proceeding. None of the parties to the inventory proceeding have raised any objection to the commencement of the inventory proceeding in the present Inventory Court for allotment of the estate of late Anil, Chandana having commenced it by filing the initial application and all other parties having subjected themselves to the jurisdiction of the Inventory Court at Panaji-Goa.

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16. the concept of "Unity of Succession" or "Universal Succession" finds its genesis in Roman Law, where the concept of "Hereditas" was applied, where inheritance to the entire legal possession of a deceased man, wherever his properties may be would be succeeded to by his heirs. this concept was also accepted in the Portuguese Civil Code and is found incorporated in Article 1737 of the Code. In Jose Paulo Coutinho (supra), the Supreme Court has considered this concept and has made the following observations:

"32. there must be unity in succession. the Portuguese law is based on the Roman law concept of hereditas i.e. inheritance to the entire legal position of a deceased man. this concept of universal succession is described in the "Comparative Analysis of Civil Law Succession", as under:



"18. In "Comparative Analysis of Civil Law Succession", Villanova Law Review, Vol. 11, Issue 2, the concept of 'universal succession and 'hereditas has been described as .... succession by an individual to the entirety of the estate, which includes all the rights and duties of the decedent (de cuius), known e collectively as the hereditas under Roman law. he succession to the whole of the estate could be by one heir (heres) or several (heredes), they taking jointly regardless of whether the succession was testate or intestate. he estate (hereditas), which passed in Roman succession was the sum of all the rights and duties of the deceased person (persona) except for his political, social and family rights which were not considered inheritable. Transfer of title to the heirs was deemed 28th May 2025 AO-28-19,XOB-9-19 & AO-7-25.DOC to occur simultaneously with the individual's death and was a complete transfer of title at that time."

33. hough we have held that this is Indian law, since it is a law of Portuguese origin, we may have to take guidance from the way in which the law has been applied to come to the conclusion to see what is the intention of the 9 law. herefore, all the properties of the person whose inheritance is in question have to be calculated and considered as one big conglomerate unit and then the rules of succession will apply.

37. In view of the aforesaid, we are clearly of the view that the Portuguese Civil Code being a special Act, applicable only to the domiciles of Goa, will be applicable to the Goan domiciles in respect to all the properties wherever they be situated in India whether within Goa or outside Goa and Section 5 of the Indian Succession Act or the laws of succession would not be applicable to such Goan domiciles."

17. his Court in A. P. Fernandes v/s. Annette Blunt Finch - 2015 (6) Mh.L.J. 717 has considered the very same position and applied the concept of Universal Succession by making the following observations:

"9. Now, we shall also examine which assets are to be considered so as to ascertain the disposable and the mandatory part. he Order of succession to the inheritance of the estate leaver is provided under Article 1969. he legitime which governs the right of a married couple is provided in Article 1108 of the Civil Code. Under Article 1737 of the Civil Code, the inheritance comprises of all the property rights and obligations of the deceased which are not merely personal or excluded by depositions of the estate leaver or by law. Article 1736 of the Civil Code provides 28th May 2025 AO-28-19,XOB-9-19 & AO-7-25.DOC that the heir is a person who succeeds to the totality of the inheritance whereas the legatee is a person in whose favour the testator disposes of a speciic object or a certain part thereof. Article 2009 of the Civil Code further provides that the inheritance opens upon the death of the estate leaver and Article 2011 of the Civil Code provides that the transmission of ownership and possession of the heirs whether instituted or legal, takes place from the moment of the death of the estate leaver. Article 2016 of the Civil Code further provides that each of the co-heir may demand the totality of the estate to which he along with the others

are entitled without the person demanded against being able to raise objections that the estate does not entirely belong to him.

10. Reading the said provisions of the Civil Code, the heirs of the estate leaver succeed to the totality of the estate belonging to the estate leaver and not to only part of the assets. Totality of the estate would include all the assets belonging to the deceased which would include the assets of the estate leaver wherever they are located. hus, in order to determine the mandatory share of the deceased, which has to be necessarily inherited by the descendants and/or ascendants as pointed out hereinabove, all the assets of the estate leaver would have to be taken into consideration to work out such mandatory share in terms of the provisions of the Civil Code as enumerated hereinabove. In such circumstances, in case the properties which are located outside the State of Goa are excluded from the Inventory Proceedings, the determination of the mandatory share of the estate leaver, which has to necessarily belong to the descendants or ascendants as provided hereinabove, would be severely and detrimentally affected.

19. he said provisions of the Civil Code thus recognise that for the purpose of succession, there can be within political units as many domiciles as there are systems of 28th May 2025 AO-28-19,XOB-9-19 & AO-7-25.DOC laws. hus, in such circumstances, the Constitution recognises that each State might have its own law on the subject of succession and thus there could be diferent domiciles for diferent States. As such, the National law of the estate leaver would govern his rights and effects of his succession. In the present case, as already pointed out hereinabove, the parents of the Appellants were admittedly from Goa and were governed by the law of succession as in force in the State. Hence, the succession of the estate leaver in the present case would have to be examined in terms of the provisions of the Civil Code as enumerated hereinabove. Principally, law of succession is a law of entitlement and also of status. It is self evident on reading the provisions of law referred to hereinabove that for achieving these objectives the descendants and ascendants of the estate leaver are entitled to, the mandatory share which they have to succeed as it would support its continuity and unity in the family by retaining its economic as well as juridical identity. Hence, the succession of the estate of the estate leaver in the present case would open in favour of the descendants both in ownership and possession subject to the provisions of law."

18. he application of the concept of Universal Succession embodied in Article 1737 of the Code could also be viewed at in a diferent situation. Prior to the liberation of Goa in 1961, the Civil Code and more particularly Article 1737 would apply to the inheritance of a person of Goan origin to his estate whether within the Portuguese territory of Goa or if he held assets within the rest of India, which would be then considered a foreign country vis-a-vis Portuguese territory. Even then, all assets and liabilities belonging to such a person's estate, on his demise, whether within the territory of Goa or overseas (in "India" or any other country) would have to be listed in an inventory proceeding 28th May 2025 AO-28-19,XOB-9-19 & AO-7-25.DOC instituted in Goa; his again would be for the

reasons, as held in A. P. Fernandes (supra) that his estate comprises all assets and liabilities, wherever they may be situated, irrespective of State or National boundaries. his is a requirement of law since, by operation of law, on the demise of a person, his heirs would automatically be conferred with a right of co-ownership of the entire estate, no matter where it is situated.

19. the same concept has been further incorporated in the Goa Succession Act under sub-section (3) of Section 8 thereof. Section 8 reads as under:-

"8. Opening of the succession.--

(1) Succession opens upon the death of the estate leaver.

(2) the place where the succession opens shall be determined as follows:--

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

(b) if the deceased did not have a permanent residence in the State of Goa, the succession opens where his immovable properties are situated in the State of Goa. If his immovable properties are situated at different places in the State of 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. If the immovable properties of the deceased are situated partly 28th May 2025 AO-28-19,XOB-9-19 & AO-7-25.DOC in the State of Goa and partly outside the State of Goa but within the country, the succession opens in the State of Goa irrespective of the value of the properties;

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

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

(3) the succession is universal and, subject to the provisions of section 373, the succession of a deceased person to whom this Act is applicable may be partitioned in Goa, wherever the properties, movable or immovable, are situated."

20. Section 13 of the Goa Succession Act stipulates that the ownership and possession of the inheritance is transmitted to the heirs, whether testamentary or intestate, the moment the estate leaver dies. Section 13 reads as under:-

"13. When the ownership and possession is transmitted- he ownership and possession of the inheritance is transmitted to the heirs, whether testamentary or intestate, the moment the estate leaver dies."

28th May 2025 AO-28-19,XOB-9-19 & AO-7-25.DOC Similar provision is contained in Article 2011 of the Portuguese Civil Code whose translation is quoted below:

"Article 2011 - Transmission of ownership and possession of inheritance - he transmission of the ownership and possession of the inheritance to the heirs whether instituted or legal, takes place from the moment of the death of the estate-leaver."

21. A combined reading of these provisions leaves no doubt in my mind that applying the principle of Unity of Inheritance to the facts of the present case, the inventory for allotment of the estate of late Anil having been instituted in Goa, his entire estate would be required to be listed, whether movable or immovable assets or liabilities, in this inventory. his would be irrespective of where his assets or liabilities are situated, in India or overseas. he question of whether there is any conflict of law applicable to the present case is at this point of time premature, as the assets of the estate of late Anil have not even been placed before the Court. All these questions may be decided only after all assets and liabilities are listed, and only in the event of any party speciically raising such an issue of jurisdiction or conflict of law qua such asset or liability. he inventory proceeding is at its nascent stage where not even the assets and liabilities of the estate leaver have been declared before the Court. For this reason, the Trial/ Inventory Court ought not to have entered into venturing a decision or inding on the extent of the Goa Succession Act and whether assets in Singapore of the deceased Anil will be subject to Indian law. To that extent, none of the indings that hold 28th May 2025 AO-28-19,XOB-9-19 & AO-7-25.DOC proceedings in the Singapore Court (where Lakshmi has been appointed Administratrix) and the present inventory proceeding, are required to go simultaneously, independent of each other or the inding that each proceeding is not governed by law of the other country cannot be sustained. he indings were not called for as the issue before the Court was whether the grounds for seeking stay of the proceedings have been made out. Such indings shall therefore be ignored and cannot form the basis for the considerations on grant or rejection of the application for stay of the proceedings.

22. A perusal of the application for stay of the proceedings at Exh.D-33 would reveal that the only ground for seeking stay of the inventory proceeding (as stated in paragraphs 3, 4, 7 and 8 of the application) was that Lakshmi having been appointed as Administratrix in a proceeding in Singapore, would have to locate the properties of the estate situated outside the State of Goa, in order to collate these assets in the inventory proceeding. Further, it was stated that any further pursuits or actions in contemplation of the inventory proceedings would render the proceeding void. A statement has also been made in the application that the petitioner has initiated the process of ascertaining details of the estate of late Anil situated outside India which are also under various litigations and disputed trust assets, pending before diferent fora. According to the averments in paragraph 4 of the application these facts were within the knowledge of the other heirs.

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23. On going through this application, all that one can conclude is that the application contains no particulars of any pending litigation in relation to any asset or a liability that accrues to the estate of late Anil. here are no details worth the name pleaded in the application of a particular litigation, the asset or liability it covers of late Anil or how the decision on the subject matter of that litigation would affect the decision in the present inventory proceeding. On such vague pleadings, there could be no case made out for raising even an iota of a ground for stay of the present inventory proceeding or to invoke powers vested in the Inventory Court under Article 284 of the Portuguese Civil Procedure Court, 1939.

Even the ground raised of apprehension in the mind of the Head of the Family that she may be accused of concealing of assets or liabilities of the estate of late Anil under Section 380, which may result in consequences of such concealing under Section 381 of the Goa Succession Act are misplaced. the Act contemplates filing an initial List of Assets under Section 399 item-wise starting with debts due to the estate, securities, actionable claims, money, foreign currency, objects of gold and precious metals followed by movables, immovables, including mortgages, leases and encumbrances and lastly debts due by the estate. Objections to this list are required to be filed under Section 400 by the heirs, and when the Head of the Family declares under Section 401 of that Act that she is unable to give a list of any assets which are not in her possession, the Court may also issue directions to such other heirs who are in possession of these assets. Deputes relating to concealment of assets have to be 28th May 2025 AO-28-19,XOB-9-19 & AO-7-25.DOC decided under Section 403 of that Act. Merely having an apprehension at this stage, without even disclosing the assets and liabilities to the knowledge of the Head of the Family would be misplaced. It is too premature, at the present stage where the initial list of assets have not even been filed to contemplate what objections will come to such list from the heirs or even whether the heirs may disclose assets or liabilities known to them. this could not be a reason to stay the inventory proceedings.

24. the two judgments cited by Shri F. E. Noronha, one of the Portuguese Supreme Court dated 06.03.1953 and the other of the High Court (Relacao) dated 15.03.1949, in fact support the view taken by me, that the application itself must disclose all reasons and facts to enable a Court to conclude that the outcome or pendency of a proceeding regarding the status or asset of the deceased would affect the judgment or directions which may be passed in the inventory proceeding. In both the judgments cited by him, the facts that constitute the cause, including the documents relied upon in those applications were specifically pleaded and referred to by the Courts by considering the application.

25. the Inventory Court was required to only assess whether there was sufficient material before it, either in the form of facts pleaded in the application or in the form of material produced along with the application to enable it to exercise jurisdiction under Article 284 of the Portuguese Civil Procedure Court, 1939. there was no cause for the Inventory Court to embark upon any decision on the law applicable to a case in Singapore or elsewhere 28th May 2025 AO-28-19,XOB-9-19 & AO-7-25.DOC when not a single detail of such litigations or even assets were before the Court. For this reason, in my opinion no case has been made out based upon the facts pleaded in the application to invoke the jurisdiction of the Inventory Court under Article 284 of the Portuguese Civil Procedure Court, 1939 to stay the inventory proceedings. the impugned order dated 03.07.2018,

would therefore have to be upheld but not for the reasons stated therein. he application at Exh.D-33 for stay of the inventory proceeding has been rightly dismissed, but for reasons that there were no grounds made out as required under Article 284 of the Portuguese Civil Procedure Court, 1939 for granting the same.

26. his brings me to the question raised in the Cross- Objections No.9/2019 as to whether the review application was at all maintainable. he main question raised before me was that the Inventory Court is not vested with the power of review under Section 114 r/w Order 47, Rule 1 of the CPC and in the facts of the present case, the Inventory Court would have no jurisdiction to even entertain an application under Section 448 of the Goa Succession Act for review of a judgment.

27. Section 458 of the Goa Succession Act declares that an inventory proceeding shall be a summary proceeding and shall not be governed by the Code of Civil Procedure, 1908, unless speciically provided for. No part of this Act provides for extension of the powers under Section 114 of the CPC of review of an order. hus, the two grounds of review found in Section 114 of CPC cannot be invoked to review an order passed by an 28th May 2025 AO-28-19,XOB-9-19 & AO-7-25.DOC Inventory Court. Clearly therefore, the power of review under the CPC has not been conferred upon Inventory Courts.

28. Section 448 of the Goa Succession Act provides for Recision of Partition. Recision of Partition may be done by two methods; the first, through a suit to challenge the judicial partition when it has attained inality on grounds of non-joinder of a co-heir or where partition is obtained by fraud. he second being by iling an application for review of a judicial partition either on the circumstance where it is proved in a criminal proceeding ending in conviction of a party to the proceeding, that the judgment of partition was obtained by corruption or where the judgment of partition is based on a false document or where some new document is produced which was not in possession of the party, itself being suicient to cancel the judgment of partition or where the judgment of partition is contrary to another judgment which constitutes res judicata. In all these cases the Recision of Partition through the process of Review on the grounds stated above are of the inal judgment of partition. Section 448 does not contemplate or empower an Inventory Court to review any of its orders (which are not in the nature of a inal partition) on grounds of error apparent on the face of the record or on the basis of new evidence, which was not in the knowledge of the applicant or could not be produced by the applicant. In other words, the power to review any order (other than a judgment of partition) on the grounds similar to the ones available under Section 114 r/w. Order 47, Rule 1 of the CPC, are not vested in an Inventory Court, the jurisdiction of an Inventory Court being a summary proceeding.

28th May 2025 AO-28-19,XOB-9-19 & AO-7-25.DOC

29. he Inventory Court, whilst passing its order dated 26.02.2019 rejecting the application for review of its order dated 03.07.2018 ought to have first decided the maintainability of the application and whether it had jurisdiction, at all, to entertain the review application under Exh.D-40. Instead of deciding the maintainability, the Court embarked upon justifying why its order dated 03.07.2018 was correctly passed, and in doing so has further compounded the situation by, at paragraphs 19

and 22 to 25 thereof, observing that in view of grant of Letters of Administration to the Head of Family, the Head of Family had to administer the assets left behind by the deceased Anil in accordance with the law of Singapore for the estate situated in Singapore and was also bound to administer the estate situated in Goa and in India as the Head of the Family appointed by the Inventory Court. These observations were totally uncalled for and are beyond the powers and jurisdiction of the Inventory Court adjudicating a review application. All that the Inventory Court was required to do was to decide first, whether it was vested with review jurisdiction either in terms of the Civil Procedure Code or in terms of Section 448 of the Goa Succession Act.

For the reasons stated in paragraphs 26 to 28 above, I hold that the Inventory Court was not vested with the power of review under Section 114 r/w Order 47, Rule 1 of CPC nor could it exercise the powers vested in it under Section 448 of the Goa Succession Act which provide for Recision of a final judgment of Partition. The application for review at Exh.D-40 is therefore required to be rejected as not being maintainable. The impugned 28th May 2025 AO-28-19, XOB-9-19 & AO-7-25.DOC order dated 26.02.2019 rejecting the review application is therefore upheld, but for reasons stated in paragraphs 26 to 28 above, and not for reasons contained in the impugned order.

30. For the reasons stated above Appeal from Order No.7/2025 is allowed. For the same reasons, Appeal from Order No.28/2019 and Cross-Objections No.9/2019 are dismissed. All pending civil applications stand disposed of. No costs.

31. The parties shall now appear before the Inventory Court in Inventory Proceeding No.78/2016/B on 20.06.2025 at 10.00 a.m. The Inventory Court shall proceed with the Inventory Proceeding in accordance with law and as expeditiously as possible. The Head of the Family Lakshmi Anil Salgaocar shall file the List of Assets/Properties and Liabilities of late Anil Salgaocar before the Inventory Court by 21.07.2025.

VALMIKI MENEZES, J.

SINGBAL  
Designation: Personal Assistant  
Date: 28/05/2025 16:14:04

28th May 2025