LEGISLATIVE ASSEMBLY OF THE STATE OF GOA

The Goa Succession, Special Notaries and Inventory Proceeding (Amendment) Bill, 2023

(Bill No. 26 of 2023)

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(As introduced in the Legislative Assembly of the State of Goa)

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GOA LEGISLATURE SECRETARIAT ASSEMBLY HALL, PORVORIM JULY, 2023.

The Goa Succession, Special Notaries and Inventory Proceeding (Amendment) Bill, 2023

(Bill No. 26 of 2023)

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BILL

further to amend the Goa Succession, Special Notaries and Inventory Proceeding Act, 2012 (Goa Act 23 of 2016).

BE it enacted by the Legislative Assembly of Goa in the Seventy-fourth Year of the Republic of India as follows:-

Short title and commencement. — (1) This Act may be called the Goa Succession, Special Notaries and Inventory Proceeding (Amendment) Act, 2023.

(2) It shall be deemed to have come into force on 21st day of December, 2016.

2. Amendment of section 52. — In section 52 of the Goa Succession, Special Notaries and Inventory Proceeding Act, 2012 (Goa Act 23 of 2016) (hereinafter referred to as the "principal Act"),-

(i) for sub-section (1), the following sub-section shall be substituted, namely:-

"(1) The legal succession shall devolve in the following order:-

- (i) on the descendants;
- (ii) on the surviving spouse;
- (iii) on the ascendants, subject to the provisions of sub-section (2) of section 72;
- (iv) on the brothers and sisters and their descendants;
- (v) on the collaterals not comprised in clause (iv) upto the 6^{th} degree;

(vi) on the State, provided that, in the absence of testamentary or intestate heir of a beneficial owner or of an emphyteusis, the property shall revert to the direct owner.

Explanation:- The provisions of this sub-section as amended by the Goa Succession, Special Notaries and Inventory Proceeding (Amendment) Act, 2023 shall be applicable to the cases/appeals pending before different courts, however the said amendment shall not disturb the rights which got crystallized before the enactment of the said Act, 2023. ".

(ii) in sub-section (2), for the expression "clauses (i), (ii) and (iii) of subsection (1)", the expression "clauses (i), (iii) and (iv) of sub-section (1)" shall be substituted.

- 3. Amendment of section 72. In section 72 of the principal Act,-
 - (i) in sub-section (1), for the expression "Where a person dies without descendents, his father and mother shall succeed to him", the expression "Where a person dies without descendents and spouse, his father and mother shall succeed to him" shall be substituted;
 - (ii) for sub-section (3), the following sub-section shall be substituted, namely:-

"(3) Where the parents have acknowledged that they are the parents of a child during the lifetime of the child, and the child dies without issue and spouse, the inheritance shall devolve upon his parents or one of them, as the case may be; where, in the circumstances mentioned above, such child dies without issue but leaving a surviving spouse, the surviving spouse shall succeed to the entire inheritance.".

4. Substitution of section 76. — For section 76 of the principal Act, the following section shall be substituted, namely:-

"76. Succession of brothers, sisters and their descendants. — In default of descendents, spouse and ascendants and where the estate leaver has not disposed off his assets, his brothers, sisters and, in a representative capacity, their descendants, shall inherit the assets."

5. Amendment of section 77.— In section 77 of the principal Act, for the expression "In default of descendants, ascendants, brothers, sisters and their

descendents, the surviving spouse shall succeed,", the expression "In default of descendants, the surviving spouse shall succeed," shall be substituted.

6. Substitution of section 83. — For section 83 of the principal Act, the following section shall be substituted, namely:-

"83. Disposable portion. — The portion which the testator may freely dispose off shall be called the disposable portion and it shall consist of half of the estate of the estate leaver, except as provided hereunder:-

- (a) Legitime of the descendants: Where the estate leaver has children or descendants at the time of his death, their legitime shall consist of half of the inheritance.
- (b) Legitime of the spouse: Where the estate leaver has no children or descendants at the time of his death but his spouse is alive, her legitime shall consist of entire inheritance.
- (c) Legitime of the parents: Where the estate leaver has no children or descendants and spouse at the time of his death but either his mother or father is alive, their legitime shall consist of entire inheritance.
- (d) Legitime of other ascendants: Where the estate leaver has at the time of his death ascendants other than the father or mother, their legitime shall consist of one third of the inheritance.".

STATEMENT OF OBJECTS AND REASONS

The order of legal succession as laid down under sub-section (1) of section 52 of the Goa Succession, Special Notaries and Inventory Proceeding Act, 2012 (Goa Act 23 of 2016) (hereinafter referred to as the "said Act") was rectified by carrying out an amendment to said sub-section (1) of section 52 vide the Goa Succession, Special Notaries and Inventory Proceeding (Amendment) Act, 2022 (Goa Act 13 of 2022). The said Amendment Act, 2022 came into force with effect from 8th day of November, 2022. The Bill now seeks to make provision for making applicable amendment to said sub-section (1) of section 52 to pending cases/appeals, however the said amendment shall not disturb the rights which got crystallized before the enactment of this legislation. The amendments as proposed to sections 72, 76, 77 and 83 of the said Act are consequential amendments which are made to bring the provisions contained in said sections in consonance with the provisions of section 52 of the said Act as amended.

This Bill seeks to achieve the above object.

Financial Memorandum

No financial implications are involved in this Bill.

Memorandum Regarding Delegated Legislation

No delegated legislation is envisaged in this Bill.

Porvorim, Goa _____ July, 2023 NILESH CABRAL Minister for Law and Judiciary

Assembly Hall, Porvorim, Goa July, 2023

NAMRATA ULMAN Secretary to the Legislative Assembly of Goa

ANNEXURE

NAME OF THE BILL: THE GOA SUCCESSION, SPECIAL NOTARIES AND INVENTORY PROCEEDING (AMENDMENT) BILL, 2023.

Sr. No.	Existing Provision	Amendment proposed in the Bill	Justification for amendment
<u>No.</u> 1.	Section 52. Order of legal succession.— (1) The legal succession shall devolve in the following order:— (i) on the descendants; (ii) on the surviving spouse; (ii) on the surviving spouse; (iii) on the provisions of sub-section (2) of section 72; (iii) on the brothers and their descendants; (iv) on the collaterals not comprised in clause (iii) upto the 6th degree; (vi) on the State, provided that, in the absence of testamentary or intestate heir of a beneficial owner or of an emphyteusis, the property shall revert to the direct owner. (2) In respect of persons referred to in clauses (i), (ii) and (iii) of sub-section (1), the agricultural produce or fruits, gathered or growing, meant and necessary for the maintenance of the couple shall be deemed to be the personal property of the surviving spouse, provided that on the date of the opening of the inheritance there is no suit for divorce or separation of persons and properties, pending or decreed.	Bin Amendment of section 52 In section 52 of the Goa Succession, Special Notaries and Inventory Proceeding Act, 2012 (Goa Act 23 of 2016) (hereinafter referred to as the "principal Act"),- (i)for sub-section (1), the following sub-section shall be substituted, namely:- "(1) The legal succession shall devolve in the following order :- (i) on the descendants; (ii) on the descendants; (iii) on the ascendants, subject to the provisions of sub-section (2) of section 72; (iv) on the brothers and sisters and their descendants; (v) on the collaterals not comprised in clause (iv) upto the 6th degree; (vi) on the State, provided that, in the absence of testamentary or intestate heir of a beneficial owner or of an emphyteusis, the property shall revert to the direct owner. Explanation: - The provisions of this sub-section as amended by the Goa Succession, Special Notaries and Inventory Proceeding (Amendment) Act, 2023 shall be applicable to the cases/appeals pending before different courts, however the said amendment shall not disturb the rights which got crystallised before the enactment of the said act, 2023. ".	The order of legal succession as laid down under sub-section (1) of section 52 of the Goa Succession, Special Notaries and Inventory Proceeding Act, 2012 (Goa Act 23 of 2016) (hereinafter referred to as the "said Act") was rectified by carrying out an amendment to said sub-section (1) of section 52 vide the Goa Succession, Special Notaries and Inventory Proceeding (Amendment) Act, 2022 (Goa Act 13 of 2022). The said Amendment Act, 2022 came into force with effect from 8 th day of November, 2022. The Bill now seeks to make provision for making applicable amendment to said sub-section (1) of section 52 to pending cases/appeals, however the said amendment shall not disturb the rights which got crystallized before the enactment of this legislation. The amendments as proposed to sections 72, 76, 77 and 83 of the said Act are consequential amendments which are made to bring the provisions contained in said sections in consonance with the provisions of section 52 of the said Act as amended.

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2.	Section 72. Succession of	Amendment of section 72 In	
	parents.— (1) Where a	section 72 of the principal	
	person dies without	Act,-	
	descendants, his father and	(i) in sub-section (1), for the	
	mother shall succeed to him	expression "where a person	
	in equal shares or to the	dies without descendent, his	
	entire inheritance where		
	only one of them is living.	succeed to him", the	
		expression, "where a person	
	Section 72 (3). Where the	dies without descendent and	
	parents have acknowledged	spouse, his father and	
	that they are the parents of a	mother shall succeed to	
	child during the lifetime of	him" shall be substituted;	
	the child, and the child dies	min shan be substituted,	
		(::) for a set (2) the	
	without issue, the	(ii) for sub-section (3), the	
	inheritance shall devolve	following sub-section shall	
	upon his parents or one of	be substituted, namely:-	
	them, as the case may be;		
	where, in the circumstances	"(3) Where the parents have	
	mentioned above, such child	acknowledged that they are	
	dies without issue but	the parents of a child during	
	leaving a surviving spouse,	the lifetime of the child, and	
	the surviving spouse shall	the child dies without issue	
	have the right to usufruct of	and spouse, the inheritance	
	half of the inheritance.	shall devolve upon his	
		parents or one of them, as	
		the case may be; where, in	
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		mentioned above, such	
		child dies without issue but	
		leaving a surviving spouse,	
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		the surviving spouse shall	
		succeed to the entire	
		succeed to the entire inheritance.".	
3.	Section 76. Succession of	succeed to the entire inheritance.". Substitution of section 76. —	
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	time of the death of the	succeed,", the expression "In
	other spouse, they were not	default of descendants, the
	divorced or there had been	surviving spouse shall
	no judicial separation of	succeed," shall be substituted.
	spouses and assets by a	
	decision which had become	
5.	final. 83. Disposable portion.—	Substitution of section 83. —
5.	The portion which the	For section 83 of the principal
	testator may freely dispose	Act, the following section shall
	off shall be called the	be substituted, namely:-
	disposable portion and it	, - <u>-</u> , -
	shall consist of half of the	"83. Disposable portion
	estate of the estate leaver,	The portion which the
	except as provided	testator may freely dispose
	hereunder:—	off shall be called the
	(a) Legitime of the parents:	disposable portion and it
	Where the estate leaver has	shall consist of half of the
	no children or descendants	estate of the estate leaver,
	at the time of his death but either his mother or father is	except as provided hereunder:-
	alive, the legitime of the	(a) Legitime of the
	surviving parents shall	descendants: Where the
	consist of half of the	estate leaver has children
	inheritance.	or descendants at the
	(b) Legitime of other	time of his death, their
	ascendants: Where the	legitime shall consist of
	estate leaver has at the time	half of the inheritance.
	of his death ascendants	(b) Legitime of the spouse:
	other than the father or	Where the estate leaver
	mother their legitime shall	has no children or
	consist of one third of the	descendants at the time
	inheritance.	of his death but his
		spouse is alive, her legitime shall consist of
		entire inheritance.
		(c) Legitime of the parents:
		Where the estate leaver
		has no children or
		descendants and spouse
		at the time of his death
		but either his mother or
		father is alive, their
		legitime shall consist of
		entire inheritance.
		(d) Legitime of other
		ascendants: Where the
		estate leaver has at the
		time of his death
		ascendants other than the father or mother, their
		legitime shall consist of
		one third of the
		inheritance.".
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