

IN THE HIGH COURT OF BOMBAY AT GOA**LD-VC-OCW-229-2020****IN****AO No. 46 of 2012**

Jagdish Yeshwantrao Chowgule Applicant
Versus
Daulatrao Yeshwantrao Chowgule &
Others Respondents

WITH**LD-VC-OCW-217-2020****IN****AO No. 46 of 2012**

Daulatrao Yeshwantrao Chowgule Applicant
Versus
Jagdish Yeshwantrao Chowgule Respondent

Mr. Rohit Bras De Sa, Advocate for the Applicant.

Mr. V.A. Lawande, Advocate for the Cabeça de Casal.

Mr. S. Desai, Senior Advocate with Mr. V.P. Thali, Advocate for Respondent No. 2.

Mr. A.D. Bhoje with Ms. S. Joshi and Ms. Andrea Rodricks, Advocates for Respondent No. 3.

Mr. Mustafa Doctor, Senior Advocate with Mr. Pulkit Bandodkar, Advocate for Respondent No. 5.

Coram:- G.S. KULKARNI, J.

Date:- 23rd December, 2020

P.C.

I have heard Mr. Rohit Bras De Sa on this application which was urgently moved. The prayer in the application is for a mandatory order that under Section 384 of the Goa Succession, Special Notaries and Inventory Proceedings Act, 2012, the Cabeça de Casal, Mr. Daulatrao Yeshwantrao Chowgule, be removed.

2. By an order dated 16.12.2020 passed by this Court (Dama Seshadri Naidu, J.), this Court observed that the estate of the deceased Yeshwantrao Dattaji Chowgule, which is part of the larger corporate property, should not go unrepresented. It was also recorded that there are internal disputes among the legal heirs of the deceased estate holder and hence, the matter required due consideration. For this purpose, as an interim arrangement, without prejudice to any of the parties, the Court permitted Mr. Daulatrao Yeshwantrao Chowgule, the Cabeça de Casal, to represent the estate of the deceased, however, observing that this arrangement will not give any advantage to any particular party nor it will prejudice any party.

3. On the aforesaid backdrop, the applicant is before the Court contending that there is likelihood that the Cabeça de Casal is not acting in the interest of the estate and is causing prejudice to the other members of the family. The averments to this effect are seen in paragraph 13 of the application.

4. I have heard the learned Counsel for the parties for some time. At the outset, it may be observed that the present application is not served on the respondents, although, Mr. Rohit Bras De Sa says that copy of the same is served by e-mail. Be that as it may, as mandatory orders are prayed for, it is appropriate that hard copy of the application is served on the Advocates representing the parties in the present proceedings. The respondents to file affidavit in reply on or before 05.01.2021. Rejoinder, if any, be placed on record within one week thereafter. After the time to file rejoinder expires, the applicant would be at liberty to move the regular Court.

5. In the meantime, as informed by Mr. Rohit Bras De Sa, a meeting of the company, "Chowgule and Company Private Limited" is proposed to be held on 28.12.2020, in

which, the Cabeca de Casal would be representing the estate of the deceased. Mr. Lawande, learned Counsel representing the Cabeca de Casal informs that his client will not take any steps to sell the shares of the Company, which he is holding interest and in the interest for all the members of the family. This shall be subject to the outcome of the present proceedings. As the parties are yet to be heard on merits, without going into the rival contentions, in my opinion, considering the interest of the estate, the Cabeca de Casal shall not take any decision prejudicial to the interest of the estate and other members of the family. Whatever steps are taken would be subject to the orders to be passed on this application. It is also expected that all the parties would cooperate with the Cabeca de Casal.

6. It is clarified that the Court has not prevented the Cabeca de Casal from voting at the meeting, however, observing that such participation in the meeting would be strictly in the interest of the estate.

7. All contentions of the parties are expressly kept open.

8. The parties are directed to also file their respective replies to the application (LD-VC-OCW-217-2020), which is filed by Mr. Daulatrao Yeshwantrao Chowgule-Cabeca de Casal, so that pleadings on the said application are also completed.

9. It also needs to be observed that the issue in the principal proceedings, namely the appeal from order, appears to be a short issue, in as much as, whether the inventory proceedings were maintainable on the ground that the deceased had not acquired Portuguese nationality by grant of certificate of naturalization, hence, the Goa Personal Law was not applicable to him. The parties shall also remain prepared to advance arguments on the main appeal so that an endeavour can be made to dispose of, the principal proceedings.

G.S. KULKARNI, J.