

**LEGISLATIVE ASSEMBLY OF THE
STATE OF GOA**

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

(Bill No. 26 of 2023)

.....
(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)

A

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:-

1. 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 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 crystallized before the enactment of the said Act, 2023. ”.

(ii) in sub-section (2), for the expression “clauses (i), (ii) and (iii) of sub-section (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

descendants, 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
1.	<p>Section 52. Order of legal succession.— (1) The legal succession shall devolve in the following order:—</p> <p>(i) on the descendants;</p> <p>(ia) on the surviving spouse;</p> <p>(ii) on the ascendants, subject to the provisions of sub-section (2) of section 72;</p> <p>(iii) on the brothers and their descendants;</p> <p>(iv) on the collaterals not comprised in clause (iii) upto the 6th degree;</p> <p>(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.</p> <p>(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.</p>	<p>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”),-</p> <p>(i)for sub-section (1), the following sub-section shall be substituted, namely:-</p> <p>“(1) The legal succession shall devolve in the following order :-</p> <p>(i) on the descendants;</p> <p>(ii)on the surviving spouse;</p> <p>(iii) on the ascendants, subject to the provisions of sub-section (2) of section 72;</p> <p>(iv) on the brothers and sisters and their descendants;</p> <p>(v) on the collaterals not comprised in clause (iv) upto the 6th degree;</p> <p>(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.</p> <p><i>Explanation:</i> - 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. ”.</p> <p>(ii) in sub-section (2), for the expression “clauses (i), (ii) and (iii) of sub-section (1)”, the expression “clauses (i), (iii) and (iv) of sub-section (1)” shall be substituted.</p>	<p>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.</p>

2.	<p>Section 72. Succession of parents.— (1) Where a person dies without descendants, his father and mother shall succeed to him in equal shares or to the entire inheritance where only one of them is living.</p> <p>Section 72 (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, 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 have the right to usufruct of half of the inheritance.</p>	<p>Amendment of section 72. - In section 72 of the principal Act,-</p> <p>(i) in sub-section (1), for the expression “where a person dies without descendent, his father and mother shall succeed to him”, the expression, “where a person dies without descendent and spouse, his father and mother shall succeed to him” shall be substituted;</p> <p>(ii) for sub-section (3), the following sub-section shall be substituted, namely:-</p> <p>“(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.”.</p>	
3.	<p>Section 76. Succession of brothers, sisters and their descendants.— In default of descendants 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. However, the surviving spouse shall be the usufructuary of the estate of the deceased spouse irrespective of their matrimonial regime, if at the time of the death of the latter they were not divorced or there was no judicial separation by a decision that had become final.</p>	<p>Substitution of section 76. — For section 76 of the principal Act, the following section shall be substituted, namely:-</p> <p>“76. Succession of brothers, sisters and their descendants.- In default of descendants, 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.”.</p>	
4.	<p>Section 77. Succession of surviving spouse.— In default of descendants, ascendants, brothers, sisters and their descendants, the surviving spouse shall succeed, provided that at the</p>	<p>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</p>	

	time of the death of the other spouse, they were not divorced or there had been no judicial separation of spouses and assets by a decision which had become final.	succeed,” the expression “In default of descendants, the surviving spouse shall succeed,” shall be substituted.	
5.	<p>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:—</p> <p>(a) Legitime of the parents: Where the estate leaver has no children or descendants at the time of his death but either his mother or father is alive, the legitime of the surviving parents shall consist of half of the inheritance.</p> <p>(b) 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.</p>	<p>Substitution of section 83. — For section 83 of the principal Act, the following section shall be substituted, namely:-</p> <p>“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:-</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.”.</p>	