



LEGISLATIVE ASSEMBLY OF THE STATE OF GOA

**The Goa Succession, Special Notaries and
Inventory Proceeding (Amendment) Bill, 2024**

(Bill No. 23 of 2024)

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

**GOA LEGISLATURE SECRETARIAT,
ASSEMBLY HALL, PORVORIM, GOA**

JULY, 2024

**The Goa Succession, Special Notaries and Inventory
Proceeding (Amendment) Bill, 2024**

(Bill No. 23 of 2024)

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BILL

*further to amend the Goa Succession, Special Notaries and Inventory
Proceeding Act, 2012 (Goa Act No. 23 of 2016).*

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

10 **1. Short title and commencement.**— (1) This Act may be called the
Goa Succession, Special Notaries and Inventory Proceeding
(Amendment) Act, 2024.

(2) It shall come into force on such date, as the Government may, by
Notification in the Official Gazette appoint.

15 **2. Amendment of section 319.**— In section 319 of the Goa Succession,
Special Notaries and Inventory Proceeding Act, 2012 (Goa Act No. 23 of
2016) (hereinafter referred to as the “principal Act”), after clause (b),
the following clause shall be inserted, namely:—

“(c) if the interested party/declarant does not comply with the
provisions of sub-sections (2), (4), (6), (7), (9) and (10) of section
346.”.

20 **3. Substitution of section 346.**— For section 346 of the principal Act,
the following section shall be substituted, namely: -

25 **“346. Declaration of heirship.**— (1) After the succession opens, the
law does not require that mandatory inventory proceedings be
instituted to partition the inheritance, heirship may be proved by a
deed of declaration of heirship drawn by the Special Notary.

(2) For the purpose of execution of a deed of declaration of heirship the interested party shall submit an application in writing before the Special Notary having jurisdiction over the place where the succession opens upon death of the concerned estate leaver/deceased person as per section 8, clearly stating therein the following details, namely:— 5

- (i) the name/s and permanent residence of the deceased person/s;
- (ii) the place of death of deceased person/s;
- (iii) residence of the deceased person/s at the time of death; 10
- (iv) the time of death of the deceased person/s (if such time of death is known to the interested party);
- (v) the name, address and contact number of interested party;
- (vi) the right in which the interested party claims heirship of the estate leaver/deceased person; 15
- (vii) the names, addresses and contact numbers of all other legal heirs of the estate leaver/deceased person;
- (viii) the details of the family or other relatives of the deceased person/s alongwith their residential address and contact numbers; and 20
- (ix) reason for execution of deed of declaration of heirship.

(3) Three persons and at least one of the interested parties shall have to declare on oath before the Special Notary that the interested party or parties named by them are the only heir or heirs of the deceased person. If such deceased person was married, the name of the spouse shall also be disclosed and whether the spouse is surviving or has expired. The interested party shall also declare in the Act whether the value of the inheritance exceeds Rs. 10 lakhs or not and he shall disclose the names of the spouses of the heirs, if any. 25 30

(4) The declarants shall produce the following documents: —

- (a) death certificate of the deceased person;
- (b) will or gift deed mortis causa, when the succession is founded on such document;
- 5 (c) document/s to prove the relationship of the heir or heirs to the deceased person/s;
- (d) the certified copies of photo identity proof of the interested party and all other legal heirs as specified in the application submitted under sub-section (2).

10 (5) The provision of production of documents as specified in sub-section (4) shall be scrupulously followed by the Special Notary and reference of all such documents produced alongwith the application shall be made by him to that effect in deed of declaration of heirship.

15 (6) The application under sub-section (2) shall be submitted in the manner as prescribed under rules 14 and 15 of the Order VI of the Code of Civil Procedure, 1908 (5 of 1908) for signing and verification of the pleadings and the date shall be mentioned on the application. All the documents as specified in sub-section (4) shall be annexed to the application.

20 (7) Where a party is unable to produce a birth certificate, death certificate or a marriage certificate issued by the authorities, the party may produce an order or decree of the court certifying such birth, death or marriage.

25 (8) In the event when a party to succession deed produces documents of his identity and the names on the documents produced are different, the parties may produce a certificate issued by the Mamlatdar for certifying the names appearing in different certificates are that of one and the same person.

30 (9) When all the interested parties are abroad, a constituted attorney with special powers may make the declaration required under sub-section (3).

(10) A person, who under the provisions of this chapter is not competent to be a witness and a person who is a successor of the presumed heir, shall not be competent to be a declarant.

(11) If the declarant/s or the interested party or parties or their attorneys, are found to have knowingly made a false declaration, with regard to the particulars required under sub-section (3), they shall be liable for penal action under sections 227 and 236 of the Bharatiya Nyaya Sanhita, 2023 (Central Act No. 45 of 2023). 5

(12) The fact that any person has been brought on record in Court proceedings other than inventory proceedings as legal representative of the deceased, shall not amount to a declaration of heirship. 10

(13) A deed of declaration of heirship shall be sufficient evidence for the purpose of, —

- (i) mutation; 15
- (ii) transfer of shares;
- (iii) withdrawal of money from a bank or other financial institution where the deposit does not exceed Rs. 50,000/-:

Provided that where there is only one heir, there is no restriction on withdrawal of any amount from the deposit. 20

(14) The application submitted by the interested party under sub-section (2) shall be a part of the record of the Special Notary and it shall be preserved alongwith the other records.

(15) The fee or duty on a deed of declaration of heirship shall be as prescribed, on each inheritance opened, irrespective of the number of heirs. 25

(16) The Special Notary recording the deed of declaration of heirship shall, at the expense of the interested party or parties, publish within 15 days, an extract of the declaration, disclosing the name and permanent residence of the deceased and the 30

5 names of the interested parties and other identification particulars, in the Government Gazette. When the value of inheritance exceeds Rs. 10 lakhs in all, such extract shall also be published in a newspaper in circulation in the locality where the deed is drawn. The Special Notary shall require the interested party or parties to advance the expenses towards the publication of the notice.

10 (17) Any person claiming to be an heir of the deceased who has not been named in the declaration may file a suit for declaration of heirship and consequential reliefs. If such suit is filed, a notice thereof shall forthwith be given by the Court to the respective Special Notary or by the Plaintiff in the suit, enclosing a certified copy of the plaint.

15 (18) If the Special Notary has not received any notice from the Court or the Plaintiff, he shall, within 30 days of the publication of the extract, issue a certified copy of declaration of heirship, which shall contain an endorsement that no such communication of institution of any suit has been received by him.

20 (19) Failure to file suit under sub-section (17), shall not deprive the aggrieved party to challenge the deed of declaration within the period of limitation.”.

25 **4. Amendment of section 361.**— In section 361 of the principal Act, for the expression “the Indian Penal Code (45 of 1860)”, wherever it occurs, the expression “the Bharatiya Nyaya Sanhita, 2023 (Central Act No. 45 of 2023)” shall be substituted.

Statement of Objects and Reasons

The Bill seeks to amend sections 319 and 346 of the Goa Succession, Special Notaries and Inventory Proceeding Act, 2012 (Goa Act 23 of 2016) so as to confer adjudicatory powers to the special notary while recording deed of declaration of heirship for collecting additional information from the applicant/ interested party and to preserve the documents and application for office record in order to comply with certain recommendations made by the Chairman of the Commission of Inquiry, Justice V.K. Jadhav (Retd.) in his Report dated 26/10/2023.

The Bill also seeks to make consequential amendment to section 361 of the said Act in view of enactment of the Bharatiya Nyaya Sanhita, 2023 (Central Act No. 45 of 2023).

This Bill seeks to achieve the above objects.

Financial Memorandum

No financial implications are involved in this Bill.

Memorandum Regarding Delegated Legislation

No delegated legislation is envisaged in this Bill.

Porvorim –Goa
Dated: /07/2024

Aleixo Sequeira
Hon. Minister for Law and Judiciary

Assembly Hall,
Porvorim-Goa,
Dated: /07/2024

Sandip Jacques
Secretary to the Legislative
Assembly of Goa

ANNEXURE

**NAME OF THE BILL: THE GOA SUCCESSION, SPECIAL NOTARIES
AND INVENTORY PROCEEDING (AMENDMENT) BILL, 2024.**

Sr. No.	Existing Provision	Amendment proposed in the Bill	Justification for amendment
1.	<p>Section 319. When the Special Notary shall refuse to perform the act.— The Special Notary shall refuse to perform the act:— (a) If such act is forbidden by law; (b) If the Special Notary doubts the mental faculties of any party, unless one of the witnesses be a doctor and the Special Notary records that such doctor has certified that such party is in his full senses.</p>	<p>Amendment of section 319.— In section 319 of the Goa Succession, Special Notaries and Inventory Proceeding Act, 2012 (Goa Act No. 23 of 2016) (hereinafter referred to as the “principal Act”), after clause (b), the following clause shall be inserted, namely:-</p> <p>“(c) if the interested party/ declarant does not comply with the provisions of sub-sections (2), (4), (6), (7), (9) and (10) of section 346.”.</p>	<p>to amend sections 319 and 346 of the Goa Succession, Special Notaries and Inventory Proceeding Act, 2012 (Goa Act 23 of 2016) so as to confer adjudicatory powers to the special notary while recording deed of declaration of heirship for collecting additional information from the applicant/ interested party and to preserve the documents and application for office record in order to comply</p>

2.	<p>346. Declaration of heirship.— (1) After the succession opens, and the law does not require that mandatory inventory proceedings be instituted to partition the inheritance, heirship may be proved by a deed of declaration of heirship drawn by the Special Notary.</p> <p>(2) Three persons and at least one of the interested parties shall have to declare on oath before the Special Notary that the interested party or parties named by them are the only heir or heirs of the deceased. If such deceased person was married, the name of the spouse shall also be disclosed and whether the spouse is surviving or has expired. The interested party shall also declare in the act whether the value of the inheritance exceeds Rs. 10</p>	<p>Substitution of section 346.— For section 346 of the principal Act, the following section shall be substituted, namely: -</p> <p>“346. Declaration of heirship. — (1) After the succession opens, the law does not require that mandatory inventory proceedings be instituted to partition the inheritance, heirship may be proved by a deed of declaration of heirship drawn by the Special Notary.</p> <p>(2) For the purpose of execution of a deed of declaration of heirship the interested party shall submit an application in writing before the Special Notary having jurisdiction over the place where the succession opens upon death of the concerned estate leaver/ deceased person as per</p>	<p>with certain recommendations made by the Chairman of the Commission of Inquiry, Justice V. K. Jadhav (Retd.) in his Report dated 26/10/2023.</p>
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	<p>lakhs or not shall disclose the names of the spouses of the heirs, if any.</p> <p>(3) The declarants shall produce the following documents:— (a) death certificate of the deceased; (b) will or gift deed mortis causa, when the succession is founded on such document; (c) document to prove the relationship of the heir or heirs to the deceased;</p> <p>(4) Where a party is unable to produce a birth certificate, death certificate or a marriage certificate issued by the authorities, the party may produce an order or decree of the court certifying such birth, death or marriage.</p> <p>(4A) In the event when a party to succession deed produces documents of his identity and the names on the documents produced are</p>	<p>section 8, clearly stating therein the following details, namely:—</p> <ul style="list-style-type: none">(i) the name/s and permanent residence of the deceased person/s;(ii) the place of death of deceased person/s;(iii) residence of the deceased person/s at the time of death;(iv) the time of death of the deceased person/s (if such time of death is known to the interested party);(v) the name, address and contact number of interested party;(vi) the right in which the interested party claims heirship of the estate leaver/deceased person;(vii) the names, addresses and contact	
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	<p>different, the parties may produce a certificate issued by the Mamlatdar for certifying the names appearing in different certificates are that of one and the same person.</p> <p>(5) When all the interested parties are abroad, a constituted attorney with special powers may make the declaration required under sub-section (2).</p> <p>(6) A person, who under the provisions of this chapter is not competent to be a witness and a person who is a successor of the presumed heir, shall not be competent to be a declarant.</p> <p>(7) If the declarants or the interested party or parties or their attorneys, are found to have knowingly made a false declaration, with regard to the particulars required under sub-section (2), they</p>	<p>numbers of all other legal heirs of the estate leaver/deceased person;</p> <p>(viii) the details of the family or other relatives of the deceased person's along with their residential address and contact numbers; and</p> <p>(ix) reason for execution of deed of declaration of heirship.</p> <p>(3) Three persons and at least one of the interested parties shall have to declare on oath before the Special Notary that the interested party or parties named by them are the only heir or heirs of the deceased person. If such deceased person was married, the name of the spouse shall also be disclosed and whether the spouse is surviving or has expired. The interested party shall also declare in the Act whether</p>	
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	<p>shall be liable for penal action under section 191 and 199 of the Indian Penal Code (45 of 1860).</p> <p>(8) The fact that any person has been brought on record in Court proceedings other than inventory proceedings as legal representative of the deceased, shall not amount to a declaration of heirship.</p> <p>(9) A deed of declaration of heirship shall be sufficient evidence for the purpose of:— (i) mutation; (ii) transfer of shares; (iii) withdrawal of money from a bank or other financial institution where the deposit does not exceed Rs. 50,000/- Provided that where there is only one heir, there is no restriction on withdrawal of any amount from the deposit.</p> <p>(10) The fee or duty on a deed of declaration of</p>	<p>the value of the inheritance exceeds Rs. 10 lakhs or not and he shall disclose the names of the spouses of the heirs, if any.</p> <p>(4) The declarants shall produce the following documents: —</p> <p>(a) death certificate of the deceased person;</p> <p>(b) will or gift deed mortis causa, when the succession is founded on such document;</p> <p>(c) document/s to prove the relationship of the heir or heirs to the deceased person/s;</p> <p>(d) the certified copies of photo identity proof of the interested party and all other legal heirs as specified in the application submitted under sub-section (2).</p> <p>(5) The provision of production of documents as</p>	
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<p>heirship shall be as prescribed, on each inheritance opened, irrespective of the number of heirs.</p> <p>(11) The Special Notary recording the deed of declaration of heirship shall, at the expense of the interested party or parties, publish within 15 days, an extract of the declaration, disclosing the name and permanent residence of the deceased and the names of the interested parties and other identification particulars, in the Government Gazette. When the value of inheritance exceeds Rs. 10 Lakhs in all, such extract shall also be published in a newspaper in circulation in the locality where the deed is drawn. The Special Notary shall require the interested party</p>	<p>specified in sub-section (4) shall be scrupulously followed by the Special Notary and reference of all such documents produced alongwith the application shall be made by him to that effect in deed of declaration of heirship.</p> <p>(6) The application under sub-section (2) shall be submitted in the manner as prescribed under rules 14 and 15 of the Order VI of the Code of Civil Procedure, 1908 (5 of 1908) for signing and verification of the pleadings and the date shall be mentioned on the application. All the documents as specified in sub-section (4) shall be annexed to the application.</p> <p>(7) Where a party is unable to produce a birth certificate, death certificate or a marriage certificate issued by</p>	
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	<p>or parties to advance the expenses towards the publication of the notice.</p> <p>(12) Any person claiming to be an heir of the deceased who has not been named in the declaration may file a suit for declaration of heirship and consequential reliefs. If such suit is filed, a notice thereof shall forthwith be given by the Court to the respective Special Notary or by the Plaintiff in the suit, enclosing a certified copy of the plaint.</p> <p>(13) If the Special Notary has not received any notice from the Court or the Plaintiff, he shall, within 30 days of the publication of the extract, issue a certified copy of declaration of heirship, which shall contain an endorsement that no such</p>	<p>the authorities, the party may produce an order or decree of the court certifying such birth, death or marriage.</p> <p>(8) In the event when a party to succession deed produces documents of his identity and the names on the documents produced are different, the parties may produce a certificate issued by the Mamlatdar for certifying the names appearing in different certificates are that of one and the same person.</p> <p>(9) When all the interested parties are abroad, a constituted attorney with special powers may make the declaration required under subsection (3).</p> <p>(10) A person, who under the provisions of this chapter is not competent to be a witness and a person who is a successor of the presumed</p>	
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	<p>communication of institution of any suit has been received by him.</p> <p>(14) Failure to file suit under sub-section (12), shall not deprive the aggrieved party to challenge the deed of declaration within the period of limitation.</p>	<p>heir, shall not be competent to be a declarant.</p> <p>(11) If the declarant/s or the interested party or parties or their attorneys, are found to have knowingly made a false declaration, with regard to the particulars required under sub-section (3), they shall be liable for penal action under sections 227 and 236 of the Bharatiya Nyaya Sanhita, 2023 (Central Act No. 45 of 2023).</p> <p>(12) The fact that any person has been brought on record in Court proceedings other than inventory proceedings as legal representative of the deceased, shall not amount to a declaration of heirship.</p> <p>(13) A deed of declaration of heirship shall be sufficient evidence for the purpose of, —</p>	
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		<p>(i) mutation;</p> <p>(ii) transfer of shares;</p> <p>(iii) withdrawal of money from a bank or other financial institution where the deposit does not exceed Rs. 50,000/-:</p> <p>Provided that where there is only one heir, there is no restriction on withdrawal of any amount from the deposit.</p> <p>(14) The application submitted by the interested party under sub-section (2) shall be a part of the record of the Special Notary and it shall be preserved alongwith the other records.</p> <p>(15) The fee or duty on a deed of declaration of heirship shall be as prescribed, on each inheritance opened, irrespective of the number of heirs.</p>	
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		<p>(16) The Special Notary recording the deed of declaration of heirship shall, at the expense of the interested party or parties, publish within 15 days, an extract of the declaration, disclosing the name and permanent residence of the deceased and the names of the interested parties and other identification particulars, in the Government Gazette. When the value of inheritance exceeds Rs. 10 lakhs in all, such extract shall also be published in a newspaper in circulation in the locality where the deed is drawn. The Special Notary shall require the interested party or parties to advance the expenses towards the publication of the notice.</p>	
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		<p>(17) Any person claiming to be an heir of the deceased who has not been named in the declaration may file a suit for declaration of heirship and consequential reliefs. If such suit is filed, a notice thereof shall forthwith be given by the Court to the respective Special Notary or by the Plaintiff in the suit, enclosing a certified copy of the plaint.</p> <p>(18) If the Special Notary has not received any notice from the Court or the Plaintiff, he shall, within 30 days of the publication of the extract, issue a certified copy of declaration of heirship, which shall contain an endorsement that no such communication of institution of any suit has been received by him.</p> <p>(19) Failure to file suit under sub-section (17), shall not deprive the aggrieved party to challenge the deed of</p>	
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		declaration within the period of limitation.”.	
3.	<p>361. Penalty for incorrectly recording, endorsing, copying, and translating documents with intent to injure.— (1) Every Special Notary appointed under this Act and every person employed in his office for the purposes of this Act, who being charged with drawing, endorsing, copying, or translating a document, does so in a manner which he knows or believes to be incorrect, intending thereby to cause or knowing it to be likely that he may thereby cause injury as defined in the Indian Penal Code (45 of 1860), to any person, shall be punishable with imprisonment for a term which may extend to seven years and shall also be liable to fine.</p>	<p>Amendment of section 361.— In section 361 of the principal Act, for the expression “the Indian Penal Code (45 of 1860)”, wherever it occurs, the expression “the Bharatiya Nyaya Sanhita, 2023 (Central Act No. 45 of 2023)” shall be substituted.</p>	<p>Amendment to section 361 of the said Act is in view of enactment of the Bharatiya Nyaya Sanhita, 2023 (Central Act No. 45 of 2023)</p>

	<p>(2) Every Special Notary appointed under this Act and every person employed in his office for the purposes of this Act, who has access to the documents, books and registers maintained in his office, remove, mutilate, destroys or make any alteration thereto intending thereby to cause or knowing it to be likely that he may thereby cause injury as defined in the Indian Penal Code (45 of 1860), to any person shall be punishable with imprisonment for a term which may extend to seven years and shall also be liable to fine.</p>		
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