

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD.

965 WRIT PETITION NO.4969 OF 2023

Subhashchandra Chandrasen (Chandranath) Kapale .. Petitioner
Versus
Shantinath Ramchandra Kasar and Another .. Respondents

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Shri. Shrikant G. Kawade, Advocate for the Petitioner through Online
Shri. R.K. Ashtekar, Advocate for Respondent Nos.1 and 2

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CORAM : NEERAJ P DHOTE, J.

Dated : JUNE 25, 2026

FINAL ORDER :-

. Heard both the sides finally at the admission stage. With their assistance, perused the papers on record.

2. Impugned in the Writ Petition under Article 227 of the Constitution of India is the Judgment and Order dated 20.12.2012 passed by the learned Principal District Judge, Osmanabad, in Misc. Civil Appeal No.101/2012 (for short, 'MCA'), which was preferred by the Respondents against the issuance of Heirship Certificate by order dated 17.08.2012 passed by the learned Civil Judge, Senior Division, Osmanabad, in Misc. Application No.63/2011.

3. It is submitted by the learned Advocate for the Petitioner that, the Petitioner being the son of late Navalbai, who was the widow of Chandrasen Kapale and left behind her landed house property, moved

the Application for issuance of a Heirship Certificate. The Respondents contested the said proceedings by filing their Say and objected for issuance of the Heirship Certificate in favour of the Petitioner. After holding necessary enquiry, the learned Civil Judge Senior Division, Osmanabad, by order dated 17.08.2012 allowed the Application and issued the Heirship Certificate in favour of the Petitioner. The Respondents preferred the aforesaid MCA, which came to be allowed by the learned Appellate Court. He submitted that, the Petitioner was the son of the first Wife of the Deceased Chandranath / Chandrasen Kapale. The learned Appellate Court should not have interfered with the order passed by the learned Trial Court which was passed after holding the necessary enquiry. He submitted that, the Petition be allowed.

4. It is submitted by the learned Advocate for the Respondents that, the Petitioner was not the son of the said Navalbai as is clear from the observations made by the learned Appellate Court. There was a Will executed in favour of the Respondents in respect of the property of Chandrasen. He submitted that, the learned Appellate Court had properly considered the matter and passed the impugned order and, hence, the Petition be dismissed.

5. The copy of Misc. Application No.63/2011 filed by the Petitioner

before the learned Trial Court shows that, he claimed to be the son of late Navalbai Chandrasen / Chandranath Kapale. He pleaded that, late Navalbai died on 13.11.2009 leaving him as the only legal heir. The house property referred in the Application was standing in the name of late Navalbai. For the purpose of mutating his name in the revenue record, he was in need of Heirship Certificate and therefore, the said Application was moved. The Reply filed by the Respondents to the said Application shows that, they denied that the Petitioner was the son of late Navalbai. They contended that, the Petitioner had suppressed the factual aspects and prayed for dismissal of the Application.

6. The learned Trial Court observed that, the relationship between the Petitioner and Deceased Navalbai was not in dispute. The learned Trial Court further observed that, *'no case was made out by the other side i.e. Respondents that the said relationship was false'*. The observations in the impugned order passed by the learned Appellate Court show that, the Petitioner was cross-examined before the learned Trial Court, wherein it has come that, *'late Navalbai was the second wife of Chandrasen and the said second Wife of Chandrasen did not begot any child from him (Chandrasen)'*. This admission is not considered by the learned Trial Court. The learned Appellate Court observed that, *'despite the said admission on record, the learned Trial Court granted the Heirship Certificate after summary enquiry'*.

7. The above observations show that, the order passed by the learned Trial Court issuing the Heirship Certificate to the Petitioner was passed without considering the relevant evidence on record. The learned Appellate Court recorded the aforesaid finding on the basis of the evidence on record, which indicates that, the contention of the Petitioner in the Application that, he was the son of late Navalbai was seen to be contrary to the evidence on record. Under such circumstances, no fault can be found with the impugned order passed by the learned Appellate Court and the Petition is liable to be dismissed. Hence, the following order.

ORDER

- (i) The Writ Petition is dismissed.

(NEERAJ P. DHOTE, J.)