

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.1553 OF 2015

SUMAN GANPAT SALUNKE

PETITIONER

VERSUS

KUSUM RAMDAS BANAGUDE

RESPONDENT

Mr.R.A.Tambe, Advocate for the petitioner.

Mr.A.S.More, Advocate for the respondent.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 23/02/2015

PER COURT :

1. I have heard the learned Advocates for the respective sides and have gone through the compromise document Exh.24 dated 13/12/2014 and the impugned order rejecting the said compromise.

2. Application Enquiry No.36/2013 was filed for claiming heir-ship certificate. The petitioner Suman is the daughter of deceased Mhasu Sakharam Mane. Deceased Govind Mhasu Mane, who is father of the sole respondent Kusum has passed away in 1966.

3. As such, the litigating sides i.e. the petitioner and the respondent, who is the married daughter of Govind Mhasu Mane, moved a Compromise Deed indicating that both of them fall in the category of Class-I heirs in the Schedule below Section 8 of The Hindu Succession Act, 1956. By the impugned order dated 13/12/2014, the Compromise

Deed has been rejected on the ground that the compromise tendered is unlawful and cannot be accepted in the light of Order 23 Rule 5 of The C.P.C.

4. I have gone through the Schedule below Section 8 of the Hindu Succession Act, 1956. The petitioner, who is the daughter of deceased Mhasu and the respondent who is the daughter of deceased Govind and grand child of deceased Mhasu fall under Class-I heirs. Learned Advocates have submitted that both the litigating parties are present in the Court and are identified by the learned Advocates. They confirm the Compromise Deed tendered by them.

5. In the light of the above, since the litigating sides are covered by Class-I heirs in the concerned Schedule, this petition is partly allowed. The impugned order dated 13/12/2014 is quashed and set aside. Succession Enquiry Application No.36/2013 is relegated back to the Trial Court for passing necessary orders of accepting the compromise tendered by the parties below Exh.24. The Trial Court shall pass such an order and thereafter shall issue an appropriate certificate to the litigating sides within a period of 6 (six) weeks from today, in the event there is no other legal impediment for passing such orders.

(RAVINDRA V. GHUGE, J.)