

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.
APPELLATE SIDE JURISDICTION

WRIT PETITION NO. 6488 OF 2014

SALMA SALEEM QURESHI AND OTHERS
VERSUS
BISMILLAH BEE HANIF QURESHI AND OTHERS

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Advocate for Petitioners : Mr. Patil Bipinchandra K S. U. Bondarde
Advocate for Respondent Nos.1 to 4 : Mr. Deokate Mayur G.
AGP for Respondent No.5 : Mr.D.R.Korde.

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CORAM : **N. W. SAMBRE, J.**
DATE : 01st April, 2015.

Per Court:

1 The Petitioner No.1 claiming to be the legally wedded wife of deceased Saleem Hanif Qureshi, questioned the succession certificate issued in favour of the Respondents. The Respondents herein on the basis of the succession certificate, sought relief of permission to withdraw the amount from the City Bank deposited in the account of said late Saleem.

2 The Court below by order dated 7th July, 2014, while overruling the objection to the withdrawal of amount referred by the Petitioner, granted permission to the Respondents to withdraw the amount. As such, the present petition.

3 The Petitioner submits that the fact about her relationship with said late Saleem was suppressed by the Respondents before the Court when the succession certificate was obtained by them. According to her, said succession certificate is void as the same was obtained by suppressing the material facts from the Court.

4 The Respondents would urge that the claim of the Petitioner qua her objection for withdrawal of the amount and also questioning the succession certificate has been considered, however, the Court cannot lose sight of the fact as regards succession certificate holding the field in favour of the Respondents. He would urge that the Court while granting permission to withdraw the amount has imposed reasonable condition, which according to the Respondents will be honoured. Based on above, he prays for dismissal of the petition.

5 Having gone through the observations made by the Joint Civil Judge (Senior Division), Aurangabad, in its order dated 7th July, 2014, which is impugned in the present petition, it is required to be noted that the Respondents hold succession certificate in their favour, which was a basis for passing of an order for permission to withdraw the amount in their favour.

6 The Petitioner to the present petition is yet to establish her claim to the property of said late Saleem and the interest of the Petitioner can be safeguarded by putting additional conditions on the Respondents viz execution of indemnity bond by all the Respondents who shall be withdrawing the amount to the satisfaction of the trial Court in addition to the undertaking incorporated in the order dated 7th July, 2014.

7 It is also clarified that the undertaking shall contain a condition that in case the Petitioner succeeds, the Respondents shall make available the amount within a period of four weeks from the date of the order, if so passed, in favour of the Petitioner.

8 With above observations, the petition stands disposed of.

[N. W. SAMBRE, J.]

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