

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

CRA NO. 210 OF 2014

**SMT. BHAGYASHREE CLAIMED W/O VISHWAS KHADKIKAR
VERSUS
SHREYASH S/O VISHWAS KHADKIKAR AND ANOTHER MINOR**

...
Advocate for Petitioner : Mathpati Shivkumar K
Advocate for Respondents : Mr.G.K.Thigale h/f Pahilwan Gautam J Adv For
R/1 And 2
...

CORAM : S.V.GANGAPURWALA,J.

DATED : 20TH OCTOBER, 2015

PER COURT :-

The present respondent has filed application for heirship certificate under the provisions of the Bombay Regulation Act. The same was allowed. Respondent filed appeal against said order seeking revocation of the said certificate. The Court allowed the appeal and heirship certificate issued in favour of the present petitioner stood cancelled.

2] Mr.Mathpati, learned counsel submits that appeal before District Court was not tenable as the Junior Division was exercising delegated powers of the District Court. The learned counsel submits that even if the petitioner is held to be a second wife that would not be sufficient to cancel the heirship certificate. According to the learned counsel the said finding is also erroneous. Mr.Thigale, learned counsel submits that as the petitioner is the second wife she cannot be heir of the deceased. Mr.Thigale submits that even

relationship of the petitioner as second wife is not established.

3] Mr.Mathpathi, learned counsel further submits that deceased Vishwas executed Will in favour of the present petitioner.

4] The enquiry in an application for grant of heirship certificate is summary in nature. The decision given in an application for heirship certificate/succession certificate does not operate as resjudicata in substantive proceeding i.e. Suit.

5] The Court has arrived at prima facie conclusion that the petitioner is the second wife of the deceased. No probate proceeding seem to have been initiated in regard to the Will.

6] As far as the objection with regard to the jurisdiction is concerned, District Court certainly has appellate jurisdiction over the junior division in matters of heirship /succession certificate.

7] Considering above, no case for interference is made out. Revision application as such, is disposed of with observation that the finding given in heirship proceeding do not operate as resjudicata in substantive Suit/proceedings.

[S.V.GANGAPURWALA,J.]

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