

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

...

23 CIVIL REVISION APPLICATION NO. 287 OF 2012

RAJESH DAGDULAL BAFNA

VERSUS

BABU PRABHU NATLE

...

Advocate for Applicant : Mr. Kale Mahesh P.

Advocate for Respondents : Mr. Sarang P. Joshi

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CORAM : S. V. GANGAPURWALA, J.

DATE : 22nd September, 2015

PER COURT :

1. The present respondent had filed application for grant of heir-ship certificate. The same is allowed. However, vide clauses 3 to 5 of the operative order, the trial Court directed the applicants of Misc. Application No.26/2010 to execute sale deed in favour of the objector. The said order is assailed before the District Court. The District Court allowed the said appeal partly and set aside Clauses 3 to 5 of the operative order of the trial Court. Aggrieved thereby, the objector has filed the present appeal.

2. Mr. Kale, the learned counsel for the revision applicant submits that the trial court, after

considering the objection, had rightly passed the order as the heir-ship certificate was qua the property which was agreed to be sold by the deceased. According to the learned counsel, no illegality was committed by the trial Court while passing the said order. The appellate court ought not have been set aside the said clauses of the operative part of the order of the trial Court.

3. Learned counsel for the respondent supports the order of the appellate court.

4. I have gone through the judgment and order. In a proceedings for grant of heir-ship certificate, only the relationship between parties has to be considered. The said proceedings are summary in nature. Any finding given while deciding the application for heir-ship certificate does not operate as *res judicata* in any subsequent proceedings. If the present applicant seeks any right over a particular property pursuant to any agreement, then he has remedy open to approach the Civil Court. It is submitted that even the applicant has resorted to the said remedy. Be that as it may, in

the misc. application, the trial could not have given direction with regard to the execution of sale deed.

5. In the light of above, no case for interference is made out. Civil revision application is dismissed. No costs.

(S. V. GANGAPURWALA, J.)

JPC