

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.11546 OF 2013**

Anant Shankar Mhatre

..Petitioner

Vs.

Bhagwan Dharma Mhatre

..Respondent

Ms Urmila P Sawant with Ms Sarla Shinde for the Petitioner

CORAM : R. M. SAVANT, J.

DATE : 10th MARCH, 2015

P.C.

1 The Writ Jurisdiction of this Court is invoked against the order dated 26-7-2006 passed by the Learned Civil Judge Senior Division, Thane, by which order the application being Misc Application No.449 of 2002 for revocation of the heirship certificate granted to the Petitioner came to be allowed and the heirship granted in Misc Application No.478 of 1993 by the 3rd Joint Civil Judge Senior Division, Thane, came to be revoked.

2 It is required to be noted that in so far as the instant application being Misc Application No.449 of 2002 is concerned, the impugned order discloses that the summons were served upon the Petitioner who is the Opponent in the application. However, inspite of service of summons he has not filed his say in the application. Before the Trial Court, the Applicant i.e. the Respondent herein has relied upon the decree passed in Regular Civil Suit No.36 of 1999. The Trial Court has allowed the said application on the ground that the evidence of the Applicant has not been contested by the Opponent.

3 The Applicant and the Opponent are cousins and claim to be the heirs of one Radhabai Bama Patil who expired on 10-6-1991. The instant Petition challenging the order passed on 26-7-2006 has been filed on 28-11-2013 that is after a period of over 7 years and 4 months of the said order. There is no plausible explanation given in the Writ Petition as to the delay caused in filing the above Writ Petition. Hence apart from the fact that the Opponent/Petitioner has not chosen to participate in adjudication of the said Misc Application No.449 of 2002, the impugned order is required to be sustained on the ground that the above Petition also suffers from delay and laches. In that view of the matter, no case for interdiction in the Writ Jurisdiction of this Court is made out. The Writ Petition is accordingly dismissed.

[R.M.SAVANT, J]