

Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
MISCELLANEOUS PETITION NO. 87 OF 2014
IN
TESTAMENTARY PETITION NO. 1116 OF 2012**

Baby Balu Jangam	...Petitioner
<i>Versus</i>	
Tanabai Balu Jangam w/o Latge Balu P. Jangam	...Respondent

Mr. Deepak Tukaram Raut, *for the Petitioner.*

Mr. M. N. Dhamal, *a/w Mr. Vishal M. Dhamal, for the Respondent.*

CORAM: G.S. PATEL, J
DATED: 12th June 2015

PC:-

1. The Petition is filed under Section 263 of the Indian Succession Act to revoke a Succession Certificate granted in favour of the Respondent on 23rd September 2013 in Petition No. 1116 of 2012. The revocation Petitioner claims to have been the first lawfully wedded wife of one Balu Jangam. Balu died in Mumbai on 18th February 2011.

2. According to the revocation Petitioner, the Respondent falsely claimed to be Balu's widow and on that basis obtained a Succession Certificate. The revocation Petitioner claims to have

married Balu and to have been his first wife. In support of this no evidence is produced other than an order dated 7th June 1988 of the Bombay City Civil Court in M. J. Petition No. 323 of 1984 (page 67 of the paper book). This was a Petition for restitution of conjugal rights brought by the present revocation Petitioner against Balu Jangam in his lifetime. The Petition was not opposed although Balu did appear. The order shows (page 70) that Balu did not oppose the grant of prayer (a) for restitution of conjugal rights. It is on this basis alone that the present claim is made.

3. In the present revocation petition, the Petitioner claims to have got married to Balu Jangam at the time when the Petitioner was 10 years old. Learned Advocate for the Petitioner says that this was some time in 1974. In her matrimonial petition, the revocation Petitioner says that she bore a male child Hari. It does not seem to be clear when that the son was born. In the petition filed in 1984, Hari is said to have been born a couple of years earlier but today learned Advocate for the Petitioner states that the son was born two or three years after her marriage at the age of 10. This is an inconsistency that is never resolved.

4. In the Affidavit in Reply, certain further details as alleged by the Petitioner have been marshalled. These only further indicate the inconsistencies in the petition. The Affidavit in Reply show that the present revocation Petitioner has been known by several different names at several different points of time. She has also claimed to have been previously married to one Mahendra Jadhav and by him to having had a male child name Ravi. On her ration card, yet another name shows. None of this is explained.

5. The revocation Petitioner has no document to evidence her marriage to the deceased. There is no marriage certificate. There are no photographs of any ceremony. There is no statement of any person who officiated at that alleged marriage or was present at the time of marriage. There is no evidence of cohabitation either or before the decree of restitution of conjugal rights. I am asked to believe only on the basis of that decree that the marriage stands proved. Indeed, it does not. To a question as to how the marriage of a girl of 10 years can be said to ever have been valid, I am informed that this is a “custom” in the Jangam community. No such custom is even pleaded, let alone proved. This is merely a statement made across the bar.

6. The revocation Petition is entirely without merits. It is dismissed with no order as to costs.

(G. S. PATEL, J.)