

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL JURISDICTIONCHAMBER SUMMONS NO.1124 OF 2014
IN
SUIT NO.18 OF 1985

N.K.Sapale .. Applicant

*-Versus-*M.K.Sapale & Ors. And Krishna
Ganapat Parkar & Ors. .. Defendants

Mr.Dhananjay Athavale for applicant

Mr.Dhawal Mohan i/b. M/s.Thakore Jariwala & Associates for
respondent Nos. 1, 3, 7 and 9

CORAM : S.C.GUPTE, J.

DATE : 22nd April 2015.

P.C.

1] This chamber summons is taken out for bringing the heirs of deceased defendant No.6 on record. The defendant No.6 expired on 8th March 2014 and the present chamber summons is taken out on 20th September 2014. The suit has already been decreed by consent order dated 28th April 1989. The execution proceedings are currently pending. The applicants who claim to be legal heirs of the deceased defendant, seek impleadment as parties to the execution proceedings.

2] Learned Counsel for the objecting defendant Nos. 1, 3,7 and 9 submits that Mr. Krishna Ganapat Parkar, who is applicant No.1, is not a legal heir of the deceased defendant No.6. It is submitted that the property, having been inherited by defendant No.6, who was female Hindu, from her father, the rule of succession provided in subsection 1 of section 15 will not apply and that applicant No.1 will not be entitled to represent the estate of the deceased defendant No.6.

3] Under section 15(2)(a) of the Hindu Succession Act, 1996, the property inherited by a female Hindu from her father or mother devolves upon heirs of the father, in the absence of any son or daughter of the deceased. In the present case, since both the son and daughter of the deceased survive the deceased, the property shall pass in accordance with the rule of succession contained in sub-section 1 of section 15.

4] Accordingly, all the three applicants are entitled to succeed the estate of the deceased defendant No.6 and are entitled to represent

her estate in the execution proceedings. Accordingly, the chamber summons is made absolute in terms of prayer clause (a). The applicants shall be added as parties to the proceedings in place of deceased defendant No.6. Such additions/ amendments be carried out within two weeks from today.

(S.C.GUPTE, J.)