

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

9 MISC.CIVIL APPLICATION NO. 4 OF 2014

PRABHAWATI SHASHIKANT KALE

VERSUS

**BALSAHEB RAMCHANDRA KULKARNI
AND ANOTHER**

.....

Mr. V.S.Bedre, Advocate for Applicant.

Mr. D.N. Bankar Patil, Advocate for R – 2.

.....

WITH

MCA/46/2014

RAJENDRA RAMCHANDRA KULKARNI

VERSUS

**THE STATE OF MAHARASHTRA
AND ORS.**

.....

Mr. D.N. Bankar Patil, Advocate for Applicant.

Mr. S.P.Sonpawle, A.G.P. for R – 1.

Mr. V.S.Bedre, Advocate for R – 2.

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CORAM : T.V.NALAWADE, J.

DATE : 20th JUNE, 2016

ORAL ORDER :-

. Both the applications are filed for transfer of proceedings which are filed for getting succession certificate/heirship certificate. Both sides are heard.

2. Mr. V.S.Bedre, learned counsel submitted that his client had filed proceeding for getting succession certificate earlier in time in the Court of the Civil Judge [Sr.Division], Shrirampur and the respondent Rajendra had appeared in that proceeding and filed Say. It is contended that subsequently respondent filed separate proceeding under same provision for getting certificate in respect of the property of the same deceased but in the Court of the Civil Judge [Sr.Division], Vaijapur. It is contended that there is possibility of giving conflict decisions if the matters are decided by 2 different Courts.

3. Learned counsel for the applicant in M.C.A. No. 46 of 2014 submitted that the proceeding is filed where the immovable property of the deceased is situated and there is nothing wrong in it. Learned counsel submitted that the so called daughter is not made party in the proceeding as she was only the step daughter of the deceased and there is will executed in favour of his client.

4. The rival contentions show that on one hand Prabhawati is contending that she is daughter of the

deceased and Rajendra is contending that the deceased was his uncle and will is executed in his favour by his aunt. In one proceeding relief is claimed of issuing certificate in respect of movable property only and in other proceeding relief is claimed in respect of movable and immovable property. Considering the nature of the proceedings, it is desirable to bring both the proceedings in one Court. In both the matters, evidence is recorded. The proceeding needs to be brought in the Court of the Civil Judge [Sr.Division], Shrirampur where the first matter was filed.

5. In the result, M.C.A. No. 4 of 2014 is allowed. M.C.A. No. 46 of 2014 is rejected. Misc. Application No. 20/2012 is withdrawn from the Court of the Civil Judge [Sr.Division], Vaijapur and is transferred to the Court of the Civil Judge [Sr.Division], Shrirampur where Misc. Application No. 27/2011 filed by Prabhawati is pending. The new Court to decide both the matters simultaneously. The parties to appear before the new Court on 15/07/2016. Both the matters are to be expeditiously disposed of and preferably within 6 months from the date of receipt of the record from the previous Court.

[T.V.NALAWADE, J.]