

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.7098 OF 2015**

Smt. Chhaya Hanmantrao Waghmode	Petitioner
Vs	
The State of Maharashtra	.. Respondent

Mr. P.D.Pise, Advocate for Petitioner.
Mr. A.R.Metkari, A.G.P for Respondent.

CORAM : R.G.KETKAR,J.
DATE : 28/03/2016

PC:

1. Heard Mr. P.D.Pise, learned counsel for the petitioner and Mr. A.R.Metkari, learned A.G.P for the respondent at length.
2. By this Petition under Article 227 of the Constitution of India, the petitioner has challenged order dated 7.7.2014 passed by the learned 2nd Jt. Civil Judge, Sr. Dn., Sangli below Exhibit-19 in Misc. Civil Application No. 185 of 2011. By that order, the learned trial Judge rejected the application made by the petitioner for appointing Court Commissioner for making inventories in respect of articles lying in locker no.4 maintained by Vita Merchant Co-operative Bank Limited, Miraj Branch.
3. The petitioner has filed proceedings under section 278 of the Indian Succession Act, 1925 (for short, 'Act') for obtaining probate/letters of administration on the ground that Ms. Sudha D. Waghmode had executed Will dated 28.4.2001 bequeathing properties in favour of the petitioner herein. In so far as the controversy in present petition is concerned, it relates to movable

properties and particularly articles lying in the locker of said Sudha Waghmode. Sudha Waghmode died on 23.5.2011. She was a spinster. The petitioner, therefore, filed application on 30.8.2011 for obtaining Probate of the Will.

4. During pendency of that proceedings, the petitioner took out Application Exhibit-19 on 3.12.2013 for appointing Court Commissioner for making inventories of the articles lying in the said locker. By the impugned order, the learned trial Judge rejected the application on the ground that the proceedings for grant of probate/letters of administration and the subject matter of the present application are different. The scope in dealing with proceedings for grant of probate/letters of administration is limited and the same does not include the subject matter of the present application.

5. Mr. Pise strenuously contended that after the inventories are made, it will facilitate the petitioner to pay the requisite court fee in the probate proceedings. In my opinion, the application made by the petitioner is premature, in the sense, that the proceedings for obtaining probate/letters of administration are pending. Till such time, the proceedings are decided, the petitioner could not have made application for making inventories. In case the petitioner succeeds, it will be open to the petitioner to approach the concerned Bank on the strength of decision of the trial Court. Subject to this, no case is made out for

interfering with the impugned order. Petition fails and the same is dismissed.

(R.G.KETKAR, J.)