

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION**

WRIT PETITION (ST) NO. 29413 OF 2016

Sandeep Sitaldas Balani

.... Petitioner

Versus

Vasudev Gurnani & Ors.

.... Respondents

Kishor Jain I/b. M.A.Shah for Petitioner.

Chandraprakash I/b. R.R.Chile for Respondent Nos. 1 to 3.

Darshit Jain I/b. M. Sundar & Shweta Jain for Respondent No.5.

***CORAM : N. M. Jamdar J.
Monday 24 October 2016***

P.C.

. Not on Board. Taken on production board by way of praecipe.

2. Heard learned Counsel for the parties.

3. The petitioner has challenged the order dated 18 August 2016 passed in Chamber Summons No. 975 of 2016, whereby the respondents have been brought on record as heirs of the original plaintiffs. The learned Counsel for petitioner submitted that there is no categorical assertion on behalf of the respondent nos.3 to 5 that they are the only heirs and there is no dispensation by the deceased,

by way of a Will or otherwise. The learned Counsel for respondent nos. 1 to 3 submitted that no other heirs have come forward to claim that they are the heirs of the original plaintiffs and respondent nos. 1 to 3 are the only heirs and no other person can claim through the deceased plaintiffs except the respondent nos.1 to 3. The learned Counsel for respondent nos.1 to 3 also submitted on instructions that Will has been executed in favour of the two daughters and they have also been brought on record as heirs of the plaintiff. Therefore, apart from the present heirs, no interest is claimed by any party either by way of testamentary or by way of succession.

4. In view of this categorical assertion on behalf of respondent nos. 1 to 3, which is accepted, it will be the respondent nos. 1 to 3, the plaintiffs, who will face the consequences, if this position is not correct, as appropriate order will be passed by the learned Civil Judge if contrary position is shown. In these circumstances, in view of the categorical assertion of respondent nos. 1 to 3 no interference is required. Writ Petition is disposed of.

(N. M. Jamdar, J.)