

SHEPHALI

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
MISCELLANEOUS PETITION NO. 44 OF 2015**

Sanjay Laxman Lohar	...Deceased
<i>And</i>	
Sangita Sanjay Lohar	...Petitioner

**Prof. Rohini Madhav Dandekar, for the Petitioner.
Mr. S.D. Butala, i/b Mr. Harshad Sathe, for the Objector.**

**CORAM: G.S. PATEL, J
DATED: 28th November 2016**

PC:-

1. The Petition will have to be dismissed. It is for a Legal Heirship Certificate under Section 2 of the Bombay Regulation VIII of 1827. It is filed by one Sangita Sanjay Lohar claiming to be the widow of Sanjay Laxman Lohar who is said to have died intestate in Mumbai on 7th July 2008. The Petition says that Sanjay Lohar was survived by Sangita and his mother Vimal. It is said that these were the only heirs.

2. The Petition is opposed by one Varsha Sanjay Lohar. She says that she is the lawfully wedded wife of Sanjay Laxman Lohar and that they were married on 9th May 1997. She also says that they have a son from this marriage, Akshay, born on 7th May 1998. A copy of the marriage certificate between Varsha and Sanjay is

annexed, as are the wedding invitation cards and a copy of Akshay's birth certificate. All of these show the name of Sanjay Lohar. It also shows his address in Mumbai.

3. On behalf of the Opponent, Mr. Butala points out that *prima facie* the Petitioner has proceeded on the basis of certain forged documents. At page 50 is a document dated 5th January 2005 of Shri Kolkeshwar Mahadev Mandir Vaidik Hindu Vivah Kendra, Naigaon, Mumbai 400 014 purporting to attest to the marriage between Sangita and Sanjay. This document supposedly has Sanjay's signature on it. On the reverse of this document, there is a reference to the accompanying documents examined by the Kendra before issuing the certificate. One of these is a Maharashtra Government Notification, a copy of which is at page 47. That Notification is, however, of 15th to 21st October 2009, *i.e.*, four years *after* the date of the certificate issued by Shri Kolkeshwar Mahadev Mandir Vaidik Hindu Vivah Kendra, and over a year after Sanjay died on 7th July 2008. Sanjay could not, therefore, ever have signed the document at page 50, nor could that document ever have referred to a Government Notification that came four years later. \Whether or not the document is fraudulent is a matter that would have to be considered at an appropriate time in an appropriate proceeding. What is, however, clear that this is not an issue that can possibly be adjudicated in a Heirship Petition with its limited scope for enquiry.

4. The Heirship Petition is dismissed. There will be no order as to costs.

5. Both sides are at liberty to adopt appropriate proceedings for representation to the deceased's estate. It is clarified that this is not to be construed to mean that I have found that the Petitioner is in fact a legal representative or a heir of the deceased. All contentions of both sides are expressly kept open.

(G. S. PATEL, J.)