

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

CIVIL APPLICATION NO. 5080 OF 2017
IN
WRIT PETITION NO. 6642 OF 2014

Seetabai Gunaji Jadhav, deceased,
through legal representatives:-
Shersing s/o Hirasing Fouji .. Applicant
versus
Kalba s/o Gunaji Jadhav and others .. Respondents

Mr. Arvind Deshmukh, Advocate for applicant
Mr. A. G. Godhamgaonkar, Advocate for respondent no.1
Mr. R. N. Chavan, Advocate holding for Mr. S. V.
Kurundkar, Advocate for respondents no.4a to 4d

CORAM : SUNIL P. DESHMUKH, J.
Date : 1st September, 2017

ORDER :

1. This application has been moved by applicant Shersing s/o Hirasing Fouji claiming that Seetabai Gunaji Jadhav - original respondent no. 1 in writ petition had executed a registered deed of will in his favour and accordingly he has applied for bringing himself on record of writ petition as legal representative of deceased Seetabai.

2. Petitioner in writ petition - present respondent no. 1 has filed his affidavit in reply to civil application and has disputed the contention of the applicant that he would be legal representative of deceased Seetabai. He purports to refer to various aspects which, according to him, may be required to be looked into and

as such, question arises as to whether the applicant is or is not a legal representative of Seetabai - respondent no. 1 in writ petition.

3. Keeping in view order XXII, rule 5 of the Code of Civil Procedure, 1908, in the circumstances, it appears to be expedient to refer the question about who is the legal representative of deceased Seetabai Gunaji Jadhav to the trial court / executing court to try and decide the same according to order XXII, rule 5 of the Code of Civil Procedure and return the record of such enquiry along with its finding and reasons therefor to this court. It may also be kept in mind that the question being referred to is only about the claim of applicant being legal representative of deceased for the property of deceased Seetabai and not rights to the property nor the matter is being sent to trial court for probate. It is expected that the decision would be rendered by trial court within a period of three months from the date of receipt of writ of this order.

4. Civil application stands disposed of.

SUNIL P. DESHMUKH,
JUDGE

pnd