

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

WRIT PETITION NO. 9628 OF 2016

Narendra Narayan Chaube	...Petitioner
versus	
Mehul Narendra Chaube and Others	...Respondents

Mr.G.V.Wani, Advocate for Petitioner
Mr.A.V.Rakh, Advocate for respondent Nos.1 to 4.
Mr.S.S.Patil, Advocate for respondent No.5.

CORAM : NITIN W. SAMBRE, J.
DATED : 13th NOVEMBER, 2017.

PER COURT :-

1. Heard.
2. The petitioner has filed the present writ petition challenging the order dated 21.04.2016, passed (by Joint Civil Judge, Senior Division, Jalgaon) in Miscellaneous Civil Application No.413 of 2013 for grant of heriship certificate, pursuant to the Bombay Regulations, VII of 1827. By the impugned order, this certificate came to be issued in favour of the present petitioner as legal heirs by incorporating condition that applicant will not be entitled to get mutation in his favour as owner and shall not be entitled to get any financial benefit out of the property. This condition is questioned in the present petition.
3. Mr. Wani, learned counsel appearing for

Petitioner urged that the said condition is contrary to the Bombay Regulations. There are no powers vested with the Court to impose such condition and according to him (based on the certificate issued), the petitioner has every right to deal with the property of the deceased as he is declared as legal heir.

4. Per contra, the learned counsel for the respondents opposed the claim. According to him, the condition is reasonable and in accordance with the relevant provisions of the Bombay Regulations. He would urge that the petitioner by virtue of the heirship certificate, petitioner can only administer property and cannot claim or create interest therein. He sought dismissal of the petition.

5. Having examined the claims put forth by Mr. Wani in the light of Regulation No. 28 of aforesaid Regulations, it has to be noted that the certificate has been issued in favour of the present petitioner only for the limited purpose of managing the property, and restrictions have been imposed over claim ownership Right or taking out any financial benefit out of it. The regulation does not contemplate scheme conferring the absolute right in favour of the petitioner. Certificate holder to become lawful owner

of the property of the deceased by virtue of the certificate in question. Restricted right created in favour of the petitioner by virtue of order passed is only for administering and managing the property of deceased.

6. In the light of above, the condition incorporated while granting certificate in favour of petitioner, in my opinion, cannot be said to be unreasonable or illegal.

7. The writ petition, as such, fails and is dismissed.

(NITIN W. SAMBRE, J.)

mta/-