

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.672 OF 2016

Bhagwat Dattatray Kirdant,
age: 65 years, Occ: Agril.,
R/o Satephal, Tq. Ambajogai,
District Beed.

Petitioner

Versus

01 The State of Maharashtra,
through its Principal Secretary,
Revenue Department,
Mantralaya, Mumbai-32.

02 The District Collector,
Beed, District Beed.

Respondents

Mr.T.G.Gaikwad, advocate for the petitioner
Ms.R.P.Gour, A.G.P. for Respondents.

CORAM : S.B.SHUKRE, J.

DATE : 30th January, 2017

ORAL JUDGMENT :

1 Heard. Rule. Rule made returnable forthwith and heard finally by consent of learned Counsel for respective parties.

2 The petitioner is aggrieved by that part of the order dated 01.08.2015 granting heirship certificate, by which the petitioner has been directed to deposit requisite fees.

3 On going through the order dated 01.08.2015, passed by the learned Civil Judge, Junior Division, Ambajogai, I find that there is no determination, in this order, as regards the court fees to

be paid by the petitioner. Before any direction to the effect that a party shall deposit "requisite" court fees is made, it is necessary for the Court to adjudicate upon the quantum of court fees that a party is required to pay. Otherwise, it would be left to the ministerial staff for making such determination, which may give rise to further litigation. In fact, it is the contention of the learned Counsel for the petitioner that proper court fees is already paid, as the petitioner was not claiming any right in respect of movable or immovable property, but was only seeking relief of heirship certificate of deceased. When such contention is put forth, it was necessary for the learned Civil Judge to have decided it one way or the other. However, this has not been done by the learned Civil Judge.

4 The impugned direction i.e. direction regarding deposit of requisite fees is quashed and set aside and the matter is remanded back to the learned 2nd Joint Civil Judge, Junior Division, Ambajogai, for determining the issue of payment of proper court fees, afresh. The learned Civil Judge shall decide the issue within fifteen days from the date of receipt of this order. So far as other parts of the order dated 01.08.2015, are concerned, they stand confirmed.

Rule is made partly absolute in above terms. No costs.

S.B.SHUKRE
JUDGE

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