

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 1848 OF 2016

Mr. Gajanan S/o. Madolappa Galurgi	Petitioner
V/s.	
State of Maharashtra & Ors.	Respondents

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Mr. R.N. Kachave, Advocate for the petitioner.

Mr. J.P. Yagnik, Additional Public Prosecutor for the respondent, State.

CORAM :-	R.M. SAVANT &
	SANDEEP K. SHINDE, JJ.
DATE :-	8TH AUGUST, 2017.

P.C. :-

1. By the above writ petition, the petitioner seeks the relief for a direction be issued against the respondents no.4 to 6 to register an FIR and carry out enquiry and

investigation in respect of the complaint of the petitioner dated 2nd May, 2016. The petitioner claims to be the heir of one, Madolappa Galurgi, who according to the petitioner, has not been heard of since 1990. The petitioner, had filed application bearing number 358 of 2011 for obtaining the Heirship Certificate, the said application was filed in the Court of the Learned 13th Joint Civil Judge Junior Division, Solapur. The Learned Civil Judge Junior Division, granted the Heirship Certificate in favour of the petitioner. The respondents no.5 and 6 also claim to be the relatives of the said Madolappa Galurgi. They made an application to the Circle Inspector, Akalkot Tahasil. It seems that, on the directions of the Circle Inspector, the Tahsildar has passed an order to register the death of the father of the petitioner as on 21st May, 2005 in the Gram Panchayat records of Konhali Village. The respondents, it seems, as a consequence have received the Death Certificate dated 28th July, 2012 in respect of the said Madolappa Galurgi. It was issued by

the Rural Development Officer, Konhali, Taluka-Akalkot. Relying upon the said Certificate, respondents no.5 and 6 applied for revocation of the Heirship Certificate granted in favour of the petitioner. The Learned District Judge, Solapur has revoked the Heirship Certificate issued in favour of the petitioner by allowing the Miscellaneous Application No. 356 of 2011 filed by respondents no.5 and 6. The said order passed by the Learned District Judge, Solapur revoking the Heirship Certificate it seems is challenged by the petitioner in this Court. It is the case of the petitioner that, though in respect of the alleged false and bogus Death Certificate obtained by respondents no.5 and 6 a complaint was made by the petitioner to respondents no.2 and 3, no cognizance of the same was taken and the petitioner has therefore sought the relief which has been adverted to in the earlier part of this order. The filing of the above petition seems to have its genesis in the application for revocation of the Heirship Certificate obtained by the petitioner. The said

revocation application seems to have been founded on the Death Certificate which the respondents no.5 and 6 had obtained in respect of the death of Madolappa Galurgi. If it was the case of the petitioner that, the said Death Certificate was false and bogus as Madolappa Galurgi has not expired and has only not been heard of since 1990, it was for the petitioner to draw the attention of the Learned Civil Judge Senior Division who was considering the application for revocation, to the said aspect. However, it seems the petitioner has not done so. Since this challenge to the revocation order passed by the Learned District Judge, Solapur is pending in this Court, it is for the petitioner to raise such contentions as are available to him in law in the said Writ Petition. Hence, it is not necessary for this Court to issue any direction of the nature sought vide prayer clauses (a) and (b) of the above writ petition. The writ petition is accordingly dismissed. However, the dismissal of the present writ petition would not come in the way of the petitioner in prosecuting the

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Tuesday, 8.8.2017

said writ petition challenging the order revoking the
Heirship Certificate granted to him.

(SANDEEP K. SHINDE, J)

(R.M. SAVANT, J)