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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

MISCELLANEOUS CIVIL APPLICATION (ST) NO.5107 OF 2018

Jayshri Gopinath Sonar	..Applicant.
V/s.	
Somnath Sitaram Sonar & Anr.	..Respondents.

Mr.Sudhir I.Nandole for the applicant.

Srikrishna
Ananth
Sharma

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by Srikrishna
Ananth Sharma
Date:
2018.09.10
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Mr.Ashok S. Guru for respondent Nos.1 & 2.

CORAM : A.M.DHAVALA, J.

DATE : SEPTEMBER 7, 2018

P.C.:-

Heard the learned counsel for the applicant and the respondents.

2. Gopinath Sonar, serving in Bharati Vidyapeeth Engineering College, Nerul, Navi Mumbai died at Panvel on August 15, 2016. The wife, the applicant herein and daughter, applicant No.2 have filed a petition for legal Heirship Certificate in the Court of Civil Judge, S.D. Panvel. The brother of the deceased has filed Probate proceedings in the same Court. The wife has

filed this application for transfer of both the proceedings from Court of Civil Judge, S.D. Panvel to Court of Civil Judge, S.D. Amalner on the ground that she is working there and it would be inconvenient for her to attend the Court at Panvel on account of long distance of 400 Kms. The application is opposed by the respondent.

3. I have heard the learned counsel for the parties. It is brought to my notice that one of the proceedings for legal Heirship Certificate was filed by the applicant herself, who is widow of the deceased at Panvel and she is now seeking transfer of the same to Amalner. It is pointed out that as per the provisions of section 371 of the Indian Succession Act, 1925 the Court of Civil Judge, S.D. at Panvel as well as the Court of Civil Judge, S.D. at Amalner are having jurisdiction as the deceased was permanent resident of Kasoda, Taluka Yerandol, District Jalgaon. It is brought to my notice that the deceased is not having any property at Amalner but was having one property at Panvel and the other at Pune. The deceased was residing at Panvel for last 14 years before his death. The opponent has strongly disputed the relationship of the applicant with the deceased Gopinath and contended that she is

not legally wedded wife of the deceased. It is submitted that the applicant was not co-habiting with the deceased for number of years. Legal Heirship Certificate is sought to be obtained for securing the retirement benefits and shares in the properties of the deceased. Considering the fact that the applicant has filed petition on her own choice at Panvel, it cannot be allowed for her to say now that the Amalner Court is having jurisdiction and the same should be transferred from Panvel to Amalner, unless there are exceptional reasons. The property is at Panvel and the deceased was serving at Panvel and considering the fact that the citation will have to be published at Panvel. The relatives of the deceased have also filed their petition for seeking Probate at Panvel.

4. In the circumstances, this is not a fit case to transfer both the cases from Panvel to Amalner only on the ground that the applicant is a woman. Hence the application is rejected.

(A.M.DHAVAL, J.)