

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

CIVIL REVISION APPLICATION NO.419 OF 2012

Pandurang Krushna More ... Applicant

Vs.

Smt.Balabai Vijay More & anr. ... Respondents

Mr.K.S. Patil for the Applicant

**CORAM: Mrs.MRIDULA BHATKAR, J.
DATED: JUNE 4, 2018**

P.C. :

1. In this Civil Revision Application, the order dated 20.2.2012 passed by the learned Civil Judge Junior Division, Vita below exhibit 1 and 20 in Civil Suit No.79 of 2011, is challenged. The learned Counsel for the applicant submits that the present applicant had appeared in the matter before the learned Civil Judge, Junior Division and has challenged the jurisdiction of the learned Civil Judge, Junior Division, Vita, mainly on the ground that the respondents, who are the original plaintiffs, have filed the suit not only for declaration that Vijay Krushna More is dead as he is not traceable for 7 years and for declaration that the respondents/plaintiffs are the legal representatives of Vijay

Krushna More but have also asked for succession certificate of Vijay Krushna More. The learned Counsel has submitted that as there is a prayer for succession certificate, the learned trial Judge has no jurisdiction to try and decide the application but it should be entertained and decided by the learned Civil Judge, Senior Division, Vita.

2. Mr.Vijay Killedar, the learned Counsel for respondents, is not present.

3. Perused the impugned order. In para 6 of the order, the learned trial Judge has in fact stated that the Civil Judge, Senior Division is the proper authority to entertain and decide the application for succession certificate. The learned Judge has erroneously held that it is a suit for declaration and therefore, he has jurisdiction to try and decide the matter. The learned Judge ought to have considered the pleadings and the prayers in the suit. Though it is filed under the nomenclature of and in the format of suit, in clause (5) of the suit and in prayer clause (a), the respondents have applied for succession certificate and hence, as per Civil manual, it is to be entertained by the learned Civil Judge, Senior Division.

4. In view of this, the Civil Revision Application is allowed. The application filed by the applicant is to be transferred to the learned Civil Judge, Senior Division, Vita.
5. Civil Revision Application stands disposed of accordingly.

(MRIDULA BHATKAR, J.)