

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

WRIT PETITION (ST.) NO.20788 OF 2017

Shri Atamaram Kana Patil and ors. ... Petitioners

Vs.

Smt.Kalubai Kashinath Bhoir and ors. ... Respondents

Mr.Sanjiv A. Sawant with Mr.Sunil Lahane with Mr.Abhishek
Deshmukh i/by M/s The Juris Partners for the Petitioners.

Mr.S.G.Deshmukh i/by Mr.Kashyap Bhalerao for Respondent
Nos.1 to 3.

CORAM : R.D.DHANUKA, J.

DATE : SEPTEMBER 25, 2018.

P.C. :

1. Mr.Deshmukh, learned counsel appearing for the Respondents raises the issue of maintainability on the ground that the impugned order dated 23rd February, 2016 passed by the Civil Judge, Senior Division, Kalyan granting Heirship certificate can be challenged by filing the petition for revocation under Section 383 of the Indian Succession Act, 1955. Statement is accepted.

2. A perusal of Section 383 of the Indian Succession Act, 1955 clearly indicates that such certificate granted under Section 372 can be impugned by filing the Petition for revocation of certificate under Section 383 of Indian Succession Act, 1955. The objection

thus raised by Mr.Deshmukh, learned counsel for the Respondents has merit and is accepted.

3. The Petitioners are at liberty to file an application for revocation of the impugned Heirship certificate dated 21st February, 2016 before the appropriate Court. The issue of limitation, if any, raised by the Respondents in filing the said application for revocation of probate shall be considered by the appropriate Court taking into consideration the applicability of Section 14 of the Limitation Act, if any.

4. Ad-interim relief granted by this Court on 26th July, 2017 shall continue for a period of eight weeks from today.

5. Application for revocation of Heirship certificate shall be filed within two weeks from today. Copy of said application shall be served upon the Respondents within one week from the date of filing of such application before the appropriate court.. It is made clear that this Court has not expressed any views on the merits of the matter. All contentions of the parties on merits are kept open. Writ Petition is disposed of in aforesaid terms. No order as to costs.

(R.D.DHANUKA, J.)