

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 7875 OF 2019

**DATTATRAY KERUBA TRIBHUVAN
VERSUS
SHANKAR KERUBA TRIBHUVAN AND OTHERS**

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Advocate for the Petitioner : Shri S. B. Kadu

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CORAM : RAVINDRA V. GHUGE, J.

DATED : 09th JULY, 2019.

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PER COURT :

1. The petitioner/original plaintiff in RCS No. 124/2014, is aggrieved by the order dated 01/03/2019 passed by the Trial Court, by which, application Exhibit 41 filed by the plaintiff seeking deletion of defendant Nos. 1 to 6 from the suit, has been rejected.

2. The learned Advocate for the petitioner has strenuously criticized the impugned order. He has drawn my attention to the grounds raised in paragraph Nos. 4 and 5 of the petition memo. It is submitted that these six defendants are unconnected with the plaintiff. His father had never solemnized a second marriage. His three real sisters are

defendant Nos. 7 to 9. His deceased father Keruba had never married Sundarbai and the children of Sundarbai are not related to Keruba or the petitioner.

3. I find from the impugned order that the Trial Court has noted that, this aspect as to whether defendant Nos. 1 to 6 are related to the petitioner or not, will have to be considered after recording of evidence. It is also noted that the plaintiff had earlier filed an affidavit in support of the application to bring defendant Nos. 1 to 6 on record as legal heirs of deceased Keruba alias Keru Tribhuvan. It is also recorded that the plaintiff can adduce evidence and can disprove his relationship with defendant Nos. 1 to 6 and their relationship with deceased Keru.

4. In view of the above, I do not find that the impugned order could be termed as being perverse or erroneous. The petitioner has an opportunity of leading evidence.

5. This petition, being devoid of merit is, therefore, dismissed.

(RAVINDRA V. GHUGE, J.)

shp/-