

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

WRIT PETITION NO. 718 OF 2018

**BHANUDAS TULSHIRAM DALVI AND OTHERS
VERSUS
VISHNU TULSHIRAM DALVI AND OTHERS**

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Advocate for the Petitioners : Shri Shaikh A. T. Patel

Advocate for Respondent No. 1 : Shri A. S. Pavse

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CORAM : RAVINDRA V. GHUGE, J.

DATED : 27th MARCH, 2019.

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PER COURT :

1. The petitioners are aggrieved by the order dated 31/07/2017, by which, the Trial Court has rejected application Exhibit 25 filed by these petitioners seeking transfer of MCA No. 360/2015 from the Court of the learned Joint Civil Judge Junior Division to the Court of the learned Civil Judge Senior Division.

2. Contention is that the respondents have moved the Trial Court for revocation of the heirship certificate which they claimed to have been granted to the petitioners due to a fraud committed by the petitioners. The petitioners have taken the

stand that as per Section 4 of the Bombay Regulations VIII of 1827, if there is any contested issue, the proceedings shall be transferred to the Court of the learned Civil Judge Senior Division. The contest put forth by these petitioners is as regards the heirship claimed by Vishnu Tulshiram and Shivaji Tulshiram.

3. The Trial Court, while rejecting application Exhibit 25 has relied upon a judgment of the Appellate Court dated 27/04/2011 delivered in Regular Civil Appeal No. 58/2008 wherein it was concluded that Vishnu and Shivaji are the sons of deceased Tulshiram and deceased Bhagubai. The issue in the revocation of heirship certificate is in relation to Tulshiram and Bhaghubai. The Trial Court, therefore, concluded that when the status of Vishnu and Shivaji is already established as being the sons of Tulshiram and Bhagubai, there is no reason to transfer the revocation proceedings to the Court of the Civil Judge Senior Division, Beed.

4. I, therefore, do not find any error committed by the Trial Court in passing the impugned order dated 31/07/2017. This

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

5. At this juncture, learned Advocate for the petitioners seeks leave to withdraw this petition. As such, this petition shall stand disposed off as withdrawn.

(RAVINDRA V. GHUGE, J.)

shp/-