

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.14214 OF 2017

Shrikant Dadu Kamble & Ors .. Petitioners

vs

Vithabai Parshuram, Kamble & ors .. Respondents

Mr. Saurabh Oka for Petitioners

Mr. Ashok B. Tajane for Respondents

CORAM : NITIN W. SAMBRE, J
DATE : 11th OCTOBER, 2019

P.C

1. One Shyamkant died on 3.6.1991 in relation to whose property the Respondent no.2 preferred succession proceedings which was allowed on 6.11.1992. The Petitioner preferred an application for revocation of the said succession certificate which was allowed on 17.8.2017.

2. As a consequence of above proceedings, the petitioner initiated proceedings for issuance of heirship certificate in which application under Order 1 Rule 10 of the Code of Civil Procedure, 1908 moved by the Respondents is allowed vide order dated 7.11.2017 by the Civil Court. As such this Petition.

3. The submissions are that the petitioners have a better degree of succession to the estate of the deceased Shamkant and right of such succession is already looked into in the order dated 17.8.2016 revoking the succession certificate dated 6.11.1992. According to him, the said order is not questioned by the

Respondents and that being so, they ought not to have been permitted to be added in the proceedings being 58 of 2016 for issuance of heirship certificate.

4. Learned counsel for the Respondents supports the order. The proceedings which are initiated by the Petitioners pursuant to the Bombay Regulation for issuance of heirship certificate are sought to be agitated by the Respondents on the ground that they are equally entitled for succession to the property of deceased *shamkant*. Whether the Petitioner or the Respondents, are having a better right of succession is an issue which needs adjudication before the civil Court in the light of their respective pleadings ? Once relations between the parties are not in dispute, it shall be open for the Civil Court to adjudicate a better right of succession and that being so, the order impugned permitting the Respondents to be added to the proceedings for issuance of succession certificate, appears to be just and proper.

5. The Petition fails. Dismissed.

(NITIN W. SAMBRE J)