

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

WRIT PETITION NO.6212 OF 2021

Giridhar s/o Baburao Kumbhar

Petitioner

Versus

The State of Maharashtra & others

Respondents

Mr.C.D.Biradar, advocate for the Petitioner.
Mr.K.B.Jadhavar, AGP for Respondent-State.

CORAM : V.K.JADHAV, J.

DATE : 22nd April, 2021.

PC :

1 I have heard learned Counsel for the petitioner at length.

2 I am not inclined to entertain this writ petition.

3 Respondent No.2-widow has filed an application for grant of heirship certificate on account of death of her husband and accordingly the Joint Civil Judge, Junior Division, Udgir, by order dated 23.06.2020, has granted legal heirship certificate in favour of Respondent No.2.

4 Being aggrieved by the same, though the petitioner has filed Misc. Civil Appeal No.02 of 2021 before the District Court, however, the said appeal is filed belatedly and thus the application seeking condonation of delay of nine months in filing the said appeal, is pending

before the District Court.

5 It further appears that the petitioner has also instituted suit bearing RCS No.352/2020 for declaration of ownership and for grant of perpetual injunction in respect of the suit property.

6 Meanwhile, Respondent No.2, along with the legal heirship certificate granted in her favour by the competent Civil Court, has filed an application before the Chief Officer, Municipal Council, Udgir for mutating her name in respect of the suit property House (Old) No.2-2-129 and (New) No.2-2-144. Though the present petitioner has raised an objection by pointing out to the Chief Officer about the pendency of the suit as well as appeal preferred against the legal heirship certificate granted in favour of Respondent No.2, the Deputy Chief Officer, by the impugned order dated 18.02.2021, allowed the application filed by the Respondent No.2 and mutated her name in respect of the suit property on the basis of the legal heirship certificate.

7 I have carefully gone through the impugned order dated 18.02.2021. It appears that the Deputy Chief Officer, Municipal Council, Udgir, has considered the legal heirship certificate granted in favour of Respondent No.2 by the competent Civil Court and mutated her name in respect of the suit property. However, in clause (4) of the operative order, the Deputy Chief Officer has explained that this order would be subject

to the order passed in pending Civil Suit as well as in appeal, preferred against the legal heirship certificate, granted in favour of Respondent No.2. Furthermore, the Deputy Chief Officer, Municipal Council, Udgir has also taken care by directing the parties, particularly, Respondent No.2 herein, not to create any third party interest in respect of the suit property till the decision of the Civil Court. In view of the same, petitioner is well protected. If at all the petitioner is aggrieved by the said order, the petitioner can very well approach the appellate/revisional authority. I find no substance in this writ petition.

8 Hence, the following order:

Writ Petition is hereby dismissed.

(V.K.JADHAV)
JUDGE

adb