

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

38 WRIT PETITION NO.2461 OF 2021

VIJAY NIVRUTTI VALTE AND OTHERS
VERSUS
AJIJ BASHIR SAYYED AND OTHERS

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Advocate for Petitioners : Mr. Kanawade Ajay T.

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CORAM : V. K. JADHAV, J.
DATE : 08.02.2021

PER COURT :-

1. Heard.
2. The learned counsel for the petitioners though pointed out the provisions of Section 384 read with Section 390 of the Indian Succession Act, however, in terms of the provisions of Section 388 particularly proviso, if the powers are invested to any court inferior in grade to a District Judge then, the appeal from any such order of an inferior court as is mentioned in Sub Section (1) of Section 384 shall lie to the District Judge, and not to the High Court.
3. In view of the same, the learned counsel for the petitioners seeks leave to withdraw this Writ Petition with

liberty to the petitioners to prefer an appeal in terms of provisions of Section 388 of the Indian Succession Act. Needless to say that the provisions of Section 388 are equally applicable to the legal heirship certificate under the Bombay Regulation Act, 1827.

4. Leave granted.

5. Writ Petition is disposed off as withdrawn with liberty to the petitioners to prefer an appeal before the District Court against the order impugned.

(V. K. JADHAV, J.)

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vmk/-