

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.8324 OF 2021**

Urmila Yashvant Mhatre .. Petitioner

Vs.

Shntaram Damoder Mhatre .. Respondent

...
Mr. Rohit D. Joshi for the petitioner.

...

CORAM : SMT. BHARATI DANGRE, J.

DATED : 01ST DECEMBER, 2021.

P.C:-

1. The petitioner is aggrieved by the order passed below Ex-75 in Civil Misc. Application No.80 of 2015 by learned Joint Civil Judge, Junior Division, Alibaug.

2. The petitioner is impleaded as respondent in the heirship proceedings and she raised an issue of maintainability of the said miscellaneous civil application. Accordingly, learned Judge has formulated an issue as under:

AJN

“Whether the application is maintainable in view of the provisions of Bombay Regulations Act, 1827?

3. An objection came to be raised that since there is no averment regarding the properties in respect of which the heirship certificate is claimed and a crucial issue arose as to who are the heirs of the deceased, the application shall not be entertained.

4. Recording that the parties have led their evidence and the proceedings are at its fag end and, therefore, framing of issue about the maintainability of the proceedings is declined by learned Judge, who in my considered opinion is justified when he records that ‘who are the heirs of the deceased Damodar’ is a complicated question and this can only be decided when the proceedings are concluded. I find no legal infirmity in the impugned order. Necessarily, the same is upheld and the writ petition is dismissed.

[SMT. BHARATI DANGRE, J.]