

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.2496 OF 2021

[Smt. Baynabai wd/o Namdevrao Satpute .vs. Sunil Yadavrao Patankar and others]

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri G.R. Sardar, Advocate for the petitioner.

.....

CORAM : N.B. SURYAWANSHI, J.

DATED : JULY 17, 2021.

Hearing was conducted through Video Conferencing and the learned counsel agreed that the audio and visual quality was proper.

2. This petition takes exception to the order dated 26.06.2021 passed below Exh.9 in M.J.C. No.700/2020 by the learned 3rd Joint Civil Judge, Senior Division, Amravati.

3. M.J.C. No.700/2020 seeking succession certificate under Section 372 of the Indian Succession Act, 1925 was filed by the respondents, contending that Manda Namdeorao Satpute alias Sau. Manda Sunil Patankar, who was working on the post of Police Hawaldar in Police Headquarter at Amravati, expired on 17.3.2020. The respondent no.1 is the husband and the respondent no.2 is the son of deceased Manda. Manda had joined the service before marriage and her maiden name was entered in the service record. A succession

certificate was therefore claimed by the respondents being the legal heirs and successors of deceased Manda.

4. The petitioner, mother of the deceased Manda, filed application praying for addition of her name in the proceedings and for intervention in the matter being legal heir and nominee of deceased Manda. The trial Court was pleased to reject the said application, hence the present petition.

5. Heard the learned Advocate for the petitioner. He vehemently submitted that since mother is nominee in the service record of the deceased Manda, she is entitled to be arrayed as a party in the proceeding. By placing reliance in **Vidyadhari and others .vs. Sukhrana Bai and others, 2008 AIR SCW 910**, he contended that the petitioner being nominee can apply for a succession certificate.

6. General rules of succession in the case of female Hindus are given in Section 15 of the Hindu Succession Act, 1956 (for short 'the said Act'). Section 15 (1) of the said Act lays down that the property of a female Hindu dying intestate shall devolve according to the rules set out in Section 16. As per Section 15 (1)(a) of the said Act, the property firstly devolves upon the sons and daughters and the husband. Mother is shown as legal heir in the third category under Section 15 (1) (c) of the said Act. Thus, the husband and son, who falls

under the first category, are required to be given preference to the mother.

7. The Trial Court has considered the rival contentions raised by the parties and by placing reliance on Sections 15 and 16 of the said Act, has rightly come to the conclusion that the petitioner-objector cannot claim herself to be a legal heir, since she is placed in the third category in Section 15 (1) of the said Act.

8. Merely because the objector is the nominee of the deceased, she is not entitled to be arrayed as a party in the said proceeding. It is settled legal position that nominee is only a trustee for legal heirs and nominee is expected to distribute the funds amongst the legal heirs. Since, in the instant case, the husband and son of the deceased being Class-I legal heirs are claiming succession certificate, the objector cannot claim herself to be a legal heir and seek her addition as a party. The decision in **Vidyadhari and others** (supra) was rendered in different facts and hence is of no help to the petitioners' case.

9. The trial Court has properly applied the law to the facts of the case and has rightly rejected the application Exh.9 filed by the petitioner by a well reasoned order. No case is therefore made out by the petitioner to exercise extra-ordinary writ jurisdiction.

10. The petition is therefore dismissed with no

order as to costs.

(N.B. Suryawanshi, J.)