

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

WRIT PETITION NO.3334 OF 2022

**SAYYED ABDUL KARIM HAIDAR
VERSUS
SAYYED GULSHANBI CHANDMIYA DECEASED AND OTHERS**

...
Advocate for Petitioner : Mr. Chandrakant K. Shinde

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CORAM : NITIN B. SURYAWANSHI, J.

DATE : 11TH MARCH, 2022

PER COURT :

1. The petition challenges order dated 03-12-2021, passed by the learned Civil Judge Senior Division, Shrirampur, below Exhibit-66 in Succession M.A. No.07/2016, thereby rejecting the application filed by the petitioner and other applicants (respondent Nos. 1 to 15 herein) seeking amendment in the main application. The Succession Misc. Application is filed by the petitioner and other applicants (respondent Nos. 1 to 15 herein) under the Bombay Regulation VIII of 1827, seeking heirship certificate of deceased Allimiya Attamiya. During the pendency of the proceedings application under Order 6 Rule 17 of the Code of Civil Procedure is filed by the petitioner and other applicants claiming that they came to know about some more properties of the

deceased which may be included in the Succession Misc. Application filed by the petitioner and other applicants. The trial Court rejected the said application holding that the properties which are sought to be added are already the subject matter of R.C.S. No.18/2015 which is subjudice and therefore, the amendment is not necessary. The trial Court was of the view that in the proceedings before him dispute regarding substantial rights of the parties in respect of the properties cannot be dealt with and mere judicial inquiry regarding legal heirs is required to be conducted in order to formally recognize them as legal heirs of the deceased.

2. It is a settled legal position that in the proceedings for heirship certificate rights of the parties are not decided. It is a summary inquiry held under the said Regulation Act in which formal declaration of heirship is given. The parties have to claim their respective rights before the competent civil Court. In that view of the matter, the approach of the trial Court is just, legal and proper and needs no interference by this Court.

3. The writ petition being devoid of merits is dismissed.

However, it is made clear that the petitioner is entitled to agitate his right in R.C.S. No.18/2015 and the impugned order passed by the trial Court shall not come in the way of petitioner and other applicants in claiming their rights to the said property.

(NITIN B. SURYAWANSHI, J.)