

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 11494 OF 2021

Abdul Rahim S/o Abdul Kadar

...Petitioner

Versus

The State of Maharashtra & Others

...Respondents

.....

Mr. Tabrezuddin i/by. Mr. Gulam Mustafa, Advocate for the
petitioner

Mr. S.W. Munde, AGP for respondent - State

.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 28th SEPTEMBER, 2022

ORDER :

1. The petitioner is aggrieved by the order passed by the learned Civil Judge, Junior Division, Sillod, below Exhibit-14 in Miscellaneous Application No. 132/2017.

2. Respondents No. 2 to 6 filed proceeding for issuance of legal heirship certificate on account of death of their father namely Budhan Shah, making following prayer:

"(B) The Legal Heirship Certificate may kindly be issued in the names of Petitioners for mutating their names in Other-Rights-Column of 7/12 Extract of Gut No.1311 admeasuring 16 Gunthas, and City Survey Office, Sillod in City Survey No. 834, admeasuring 796.9 square meters, as the petitioners are legal heirs and

successors of the deceased Budhah Shah s/o Makhan Shah being Mutawalli of the Dargah Hazrat Mastan Shah, situated at Andhari, Tq. Sillod, Dist. Aurangabad."

3. The petitioner thereafter filed objection contending that the properties mentioned in the proceeding by the respondents are service inam lands which are under the supervision of Wakf Board, as per the Wakf Act. The respondents have no right, interest and succession of the said properties. The Wakf Board has appointed committee for supervision of said Wakf properties. The petitioners therefore requested to frame preliminary issue as to whether the Court has jurisdiction to decide the petition.

4. It is settled legal position that the heirship certificate does not confer any right, title or interest in the property. It is a formal recognition of status of legal heir. In that view of the matter, the apprehension of the petitioner appears to be premature.

5. If the Trial Court allows the application of the respondents, it shall only allow it to the extent of giving formal recognition that the respondents are legal heirs of Budhan Shah

Makhan Shah. The Trial Court does not have jurisdiction to allow entire prayer made in the proceeding by the respondents.

6. With the above observations, writ petition is disposed of.

[NITIN B. SURYAWANSHI, J.]