

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

923 WRIT PETITION NO.4755 OF 2022

**SAYYED AZEEMULLA SAMIULLA PATEL AND OTHERS
VERSUS
FATEMABI SAMIULLAH PATEL AND OTHERS**

...
Advocate for Petitioners : Mr.Shinde Manoj Dharmaraj

...

CORAM : NITIN. B. SURYAWANSHI, J.

DATE : 27th APRIL, 2022.

PER COURT :

1. The petitioners are aggrieved by the order passed by the learned 3rd Jt. Civil Judge, Senior Division, Latur below application Exh. 29, thereby rejecting the prayer of the petitioners seeking suspension of the proceedings, until the parties get their rights decided by way of Regular Civil Suit.

2. Respondents have filed the said proceeding i.e. Civil M.A. 986 of 2021 under the Bombay Regulation VIII of 1827 seeking heirship certificate. The petitioners claiming to be the legal heirs of the deceased and appeared in the said proceedings and resisted the claim of the respondents. The petitioners thereafter filed the said application seeking suspension of the proceeding till the parties can get their rights decided by way of Regular Civil Suit. The application is rejected by the trial Court on the ground that issuance of heirship

certificate is only a formal recognition of the status of the parties, in which the summery inquiry is necessary. The trial Court further held that an objection is placed on record by the petitioners and certain documents are placed on record along with Exh. 26, such as Adhar Card and Ration Card to substantiate their claim. However, the parties are yet to adduce the detailed evidence and it is necessary to give them an opportunity to lead evidence. Therefore, the proceedings cannot be suspended at this stage.

3. The approach of the trial Court is proper, the same is in consonance with the legal position. The trial Court has rightly come to a conclusion that at the present stage an objection is placed on record by the petitioners and they have also produced certain documents to substantiate their claim. The parties will have to be given an opportunity to lead evidence to prove their respective contentions and therefore, at the preliminary stage the application filed by the petitioners is rightly held to be not maintainable.

4. After the evidence is led by the respective parties, the petitioners may renew their prayer for stay to the proceedings. If such application is filed at that stage, it shall be considered on its own merits by the trial Court, without being influenced by the order

impugned in the present petition. With these observations, the writ petition is dismissed.

(**NITIN B. SURYAWANSHI**)
JUDGE

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