

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

CIVIL REVISION APPLICATION NO. 67 OF 2022

Premkumar Jawaharlal Kakkad

..APPLICANT

VERSUS

State of Maharashtra

..RESPONDENT

Mr. S.C. Arora, Advocate for applicant

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CORAM : R.G. AVACHAT, J.

DATE : 08th JUNE, 2022

PER COURT :

1. After having heard learned counsel for the applicant, the Court is not inclined to even issue notice to the respondent. The applicant has been unsuccessful before both the Courts below. A succession certificate was sought for in the capacity as a nominee to the bank account and as a Class II heir of the deceased.

2. It appears from the record and has been admitted by learned counsel for the applicant that the deceased did not have Class I heir. It is however informed that there are other Class II heirs of the deceased. Admittedly, they were not made party to the application for succession certificate when it was very much mandatory in terms of Section 372(1)(c) of the Indian Succession Act, 1925. Admittedly, the deceased was a Hindu. She

was a female. Therefore, Schedule of the Hindu Succession Act, 1956 containing the list of Class II heirs could not be invoked. One has to go by the terms of Section 15 of the Hindu Succession Act, 1956. Admittedly, the deceased is not survived by children or children of her pre-deceased children. Her property would, therefore, go to the legal heirs of her husband. The applicant claims to be the son of the brother of the deceased. It needs no mention that mere nomination does not make the person entitle to receive the amount. That only can give a valid discharge to the debtor of the deceased. It is not known as to whether there are any heirs of the husband of the deceased.

3. In the fitness of things, this Court is not inclined to issue notice to the respondent. The applicant would be at liberty to agitate his claim in a substantive suit, if so advised. Civil revision application stands dismissed.

(R.G. AVACHAT, J.)

SSD