

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION 6166 OF 2018

Umaji Balu Buchade
through Power of Attorneyholder
Maruti Tukaram Chougule .. Petitioner

V/s.

Grampanchayat Shiye
through its Gramvikas Adhikari & Ors. ..Respondents

Mr. Nikhil N. Pawar for the petitioner.

Mr.Sanjiv A. Sawant a/w Mr. AP Deshmukh for the Respondent nos.
2 and 3.

CORAM : ROHIT B. DEO, J.

DATE : 29 JULY 2022

P.C.

1. The challenge in the petition is to the order dated 08.11.2017 rendered by the 2nd Joint Civil Judge, Junior Division, Peth, Vadgaon (trial Judge) whereby the application preferred by the respondents u/s Order I, Rule 10 of the CPC is allowed.

2. R.C.S. 204/2012 was originally instituted by Laxmibai Balu Buchade, seeking injunctive relief against the Gram-Panchayat of village Shiye, Taluka-Karveer, District-Kolhapur where the suit property is situated.

3. Smt.Laxmibai expired during the pendency of the suit and the petitioner Umaji Buchade persuaded the Court to bring him on record as her legal representative. Umaji Buchade claims to be the step son of the deceased Laxmibai.

4. Respondents 2 and 3 herein, preferred an application under Order 1 Rule 10 asserting that they are closely related to the deceased Laxmibai and in any event, Umaji is an usurper and has no right or interest in the suit property.

5. While allowing the application under Order 1 Rule 10, the learned trial Judge has noted several documents placed on record, inter alia written statement filed by the deceased Laxmibai in the substantive suit for partition in which she levelled serious allegations against Umaji. The stand taken by the deceased Laxmibai in the substantive partition suit is that Umaji and others have fabricated certain documents and that Umaji has no right, share or interest whatsoever in the subject properties.

6. While the application is preferred under Order 1 Rule 10 of the CPC, the sum and substance is that, the applicants are the legal heirs of the deceased Laxmibai. The learned trial Judge, after noting the documents placed on record, observed that prima facie the applicants are Class-II heirs of the deceased/plaintiff Laxmibai.

7. I need not delve deeper in respective claims of being the legal representatives. The only option with the Court is to conduct an enquiry as is contemplated under O 22 R 5 for the limited purpose

of ascertaining who is to represent the deceased-Laxmibai in the suit.

8. Other aspect which the learned trial Judge will have to consider is, considering the conflict of interest, in view of serious allegations which deceased Laxmibai levelled against Umaji, can he be permitted to represent Laxmibai in the suit. All these questions will have to be addressed by the learned trial Judge at an appropriate stage.

9. I see no reason to interfere in the writ jurisdiction.

10. The petition is dismissed.

(ROHIT B. DEO, J.)