

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

WRIT PETITION 2483 OF 2022

Rukmini Bhimrao Mane & Anr. ... Petitioners

V/s.

Dattatray Shamrao Chavan ... Respondent

Mr. Satish K. Kumbhar for the Petitioner.

Ms. Clarissa Miranda i/b. Abhishek Patil & Mr. A. A. Jain for the Respondent.

CORAM : ROHIT B. DEO, J.

DATE : 20th JUNE 2022

P.C.

1. The challenge is to order dated 14.10.2021 rendered by the Second Joint Civil Judge Senior Division, Sangli in Civil Miscellaneous Application 52 of 2015 whereby the application preferred by the respondent Mr. Dattatray Shamrao Chavan under the Bombay Regulation Act, 1827 is allowed and the objection preferred by the petitioners to grant of heirship certificate is rejected. The heirship certificate is sought as regards estate of deceased Shamrao Chavan who expired on 06.09.2014. The respondent Mr. Dattatray Shamrao Chavan claims that since his mother Smt. Sunder Shamrao Chavan also expired on 22.07.2014, he is the only legal heir of deceased Shamrao Chavan.

2. According to Mr. Dattatray Chavan while petitioner 2 Mr. Uday Chavan is the son of Rukmini Mane, they have no relationship with deceased Shamrao Chavan.

3. In response to the notice issued and proclamation published the petitioners appeared and filed reply in opposition claiming that the petitioners are also legal heirs of deceased Shamrao Chavan. The specific case of the petitioners is that during his life time Shamrao Chavan had two wives, the mother of Mr. Dattaray and petitioner 1 Rukmini.

4. It is common ground that the petitioners have instituted Regular Civil Suit 278 of 2014 seeking partition of the property left behind by deceased Shamrao Chavan. Considering the statutory scheme of the Bombay Regulation Act, the heirship certificate does not declare much less confer title. The certificate merely enable a person to administer the property of the deceased and the rights ultimately shall have to be decided by the Civil Court. In the present case, the suit for partition is already filed in which the respective rights shall be adjudicated and to that extent the observations in the order impugned shall be subservient of the civil courts determination. Even *dehors* the said aspect, the learned Civil Judge has noted the evidence of petitioner 1 Rukmini who claims to have married Shamrao Chavan on 12.11.1970. The Petitioner 1 Rukmini admits in the evidence that she has no evidence to show that as a fact on 12.11.1970 she married deceased Shamrao Chavan. The learned Civil Judge then notes the admission of petitioner 1 Rukmini during her evidence that she is the second wife of Shamrao Chavan.

5. I need not make any observation, and indeed such exercise is wholly unnecessarily, on whether the property left behind deceased Shamrao Chavan is his self earned or ancestral and whether the petitioners are the legally wedded wife and legitimate son of the deceased Shamrao Chavan. All these issues are bound to be addressed and adjudicated in the partition suit.
6. Needless to observe, nothing said or observed in the order impugned or then in this order shall influence the trial of the partition suit.
7. Subject to observations supra, the petition is dismissed.

(ROHIT B. DEO, J.)