

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

CIVIL REVISION APPLICATION 40 OF 2021

Janabai Ankush Jadhav and Ors. Applicants
Vs.
Meena Menakshi Hanmant Jadhav Respondents

Mr. Vivek V. Salunke for the Applicants.
Mr. N. B. Patil, AGP for Respondent-State.

CORAM : ROHIT B. DEO, J.

DATE : 28th JUNE 2022.

P. C.

Respondent 1 preferred an application under section 372 of the Indian Succession Act 1925 (the Act) in the court of learned Civil Judge, Senior Division, Solapur.

2. Perusal of paragraph 6 of the application reveals that respondent 1 averred that the deceased, who according to her was her husband, was posted at Navi Mumbai and died within the territorial jurisdiction of Taluka Karveer, District Kolhapur. Having so averred, the applicant contended that since she is residing in Pakani, North Solapur the Kolhapur Court has territorial jurisdiction to entertain the application under section 372 of the Act.

3. Section 371 of the Act reads thus:

"371. Court having jurisdiction to grant certificate.—

The District Judge within whose jurisdiction the deceased ordinarily resided at the time of his death, or, if at that time he had no fixed place of residence, the District Judge, within whose jurisdiction any part of the property of the deceased may be found, may grant a certificate under this Part."

4. The applicants preferred an application under Order 7 Rule 10 seeking return of plaint on the premise that the Court at Solapur does not have territorial jurisdiction to entertain the application under section 372 of the Act. This application is rejected by the order impugned dated 20/1/2021.

5. In the teeth of the unambiguous provisions of section 371 of the Act reproduced supra, the Court at Solapur lacks territorial jurisdiction to entertain the application. The order impugned is set aside. It is held that the application is liable to be returned to Respondent 1 for its presentation before the appropriate Court.

6. The learned Civil Judge shall pass appropriate consequential order within next 30 days, after issuing notice to respondent 1, since there is no appearance on her behalf in the present Civil Revision Application.

7. The Civil Revision Application is allowed in the aforesaid terms.

(ROHIT B. DEO, J.)