

R.M. AMBERKAR
(Private Secretary)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2016 OF 2022

Prabhakar Dattatray Patil & Anr.

.. Petitioners

Versus

Sunita Parshuram Patil & Ors.

.. Respondents

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- Mr. G.H. Keluskar for Petitioners
- Mr. Tejas Pawar i/by Mr. Vishal G. Salvi for Respondent No. 1
- Mr. S.D. Rayrikar, AGP for State

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CORAM : MILIND N. JADHAV, J.

DATE : NOVEMBER 29, 2022

P.C.:

- 1.** Heard learned Advocates appearing for the respective parties.
- 2.** By the present petition, Petitioners have challenged the legality and validity of the order dated 06.03.2020 passed by learned Civil Judge Senior Division, Alibaug under Exhibit 16. Said Darkhast is made by Petitioners objecting to grant of share to Respondent Nos. 1 and 2 who are their married sisters from the compensation amount awarded in respect of lands belonging to the father. The objections of Petitioners are to the effect that during the pendency of execution application, father of Petitioner and Respondent Nos. 1 and 2 expired and in that view of the matter, it is only the Petitioner who would now be entitled to the legacy of the deceased father and not Respondent Nos. 1 and 2. Reading of the said Darkhast made by Petitioner which is at page 29 of the petition and the impugned order clearly reveal that

the reference Court has passed the reasoned order under the provisions of Section 30 of the Land Acquisition Act, 1894 in respect of apportionment of the amount declared as award in favour of the legal heirs of deceased Dattatray Vitthal Patil.

3. The only objection raised by the Petitioners is to the effect that since Respondent Nos. 1 and 2 had been married long back, they would not be entitled to any share whatsoever in the compensation / amount declared as award for acquisition of Dattatray's land. While passing the impugned order, learned trial Judge has referred to the provisions of the Hindu Succession Act, 1956 and the decisions passed thereunder, *inter alia*, referring to entitlement of share in the property of the deceased father in favour of the married daughters in accordance with law.

4. Learned Advocate for Respondents would submit that Respondent Nos. 1 and 2 being legal heirs of deceased Dattatray, would be entitled to their respective shares as determined by the learned reference Court and which has been adopted by the learned Judge while dismissing the Special Darkhast made by Petitioners.

5. Mr. Keluskar, learned Advocate for Petitioners submitted that in the application i.e. Special Darkhast preferred by him, he has not claimed the entire amount unto himself.

6. Perusal of the Judgment dated 06.03.2020 does not leave any

doubt in my mind as to the computation of the share of Petitioner and Respondent Nos. 1 and 2 as decided by the learned reference Court in apportionment proceedings. Both the learned Advocates inform the Court that the entire amount of Rs. 1,18,31,566/- has been deposited with the Trial Court in fixed deposit on 11.12.2018. The apportionment of the aforesaid amount in favour of the Petitioner and Respondent Nos. 1 and 2 has been indicated in the order dated 06.03.2020. Petitioner and Respondent Nos. 1 and 2 are entitled to their respective shares along with accrued interest on the aforesaid deposited amount. The Trial Court is directed to carry out the exercise of dividing the aforesaid amount in their shares as stipulated in the order dated 06.03.2020 and offer the same to the parties within a period of four weeks from today. For that reason, Trial Court is permitted to foreclose the fixed deposit prematurely. Order dated 06.03.2020 is sustained and calls for no interference whatsoever.

7. With the aforesaid direction, Writ Petition stands disposed of.

[MILIND N. JADHAV, J.]

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by RAVINDRA
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