

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

SECOND APPEAL NO. 468 OF 2016

Shri. Bhimrao Dada Salunkhe ... Appellant

Versus

Smt. Babibai Eknath Thakare And Anr. ... Respondents

....

Mr.Indrajeet R. Kulkarni a/w. Yotiga Tembe, for Appellant.

Mr.Rajan S. Pawar, for Respondent No.1.

....

CORAM : NITIN W. SAMBRE, J.

DATED : 14th NOVEMBER, 2022

P.C.:

1. Appellant/plaintiff preferred Regular Civil Suit No.720 of 2002 on the file of 8th Joint Civil Judge Junior Division, Thane seeking relief of possession of the suit plot of land alongwith room. The said claim was based on the heir-ship certificate which was issued in his favour. The suit came to be dismissed on 7th November, 2009. The appeal preferred by the appellant came to be dismissed on 6th April 2015. As such this second appeal.

2. The learned counsel for the appellant would urge that once the heir-ship certificate is issued in favour of the appellant thereby certifying to be legal heirs of the person who was owner of the said property, the suit property devolves upon the appellant and as such he becomes owner of the property.

3. As such question of law the appellant has canvassed is whether both the Courts below have committed an error in ignoring consequences of heir-ship certificate issued in favour of the appellant by the competent authority.

4. The counsel for the respondent would support the judgment and seek dismissal.

5. The fact remains that in 1998 heir-ship certificate was issued in favour of the appellant. Appellant and respondents are in blood relation i.e. respondent is step sister of the appellant.

6. The appellant in his cross-examination has given an admission that he has not added the respondent to the heir-ship certificate application as party. As such, even if the fact about issuance of the heir-ship certificate in favour

of the appellant in 1998 is appreciated, that by itself will not confer the title of the suit property in his favour.

7. The suit for possession is based on the title. Once the appellant has failed to establish his title to the suit property, his claim for possession was rightly rejected by both the Courts below.

8. No error could be noticed in the judgment impugned. Second appeal sans involvement of question of law.

9. As such, the Petition stands dismissed.

(NITIN W. SAMBRE, J.)