

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

**WRIT PETITION 3213 OF 2022
WITH
INTERIM APPLICATION 9959 OF 2022**

Smt. Vanita Subhash Lala (married
daughter of Late Bakhatram P. Ralreja
& Ors.)

..... Petitioners

Vs.

Puj. Dharamwadi Panchayat Trust
through its President and Ors.

..... Respondents

Mr. Girish R. Agrawal for the Petitioners.

Mr. Girish Paryani i/b Smt. T. J. Sodhi for Respondent 1.

CORAM : ROHIT B. DEO, J.

DATE : 28th JUNE 2022.

P. C.

This petition emanates from the proceedings under the Bombay Regulation Act, 1872 (the Act). The Petitioners have sought heirship certificate under the provisions of the Act and it is averred in the application that the heirship certificate is sought in respect of properties left behind by Bhakatram Pahilahrai Talreja. and Smt. Bhagwanti Bhakatram Talreja.

2. Respondent 1-third party preferred an application seeking impleadment in the proceedings under the Act on the premise that he is in possession of the property which is the subject matter of the proceedings.

3. Learned Civil Judge, Senior Division, Kalyan has permitted third party to appear and participate in the proceedings on the premise that the claim of the third party is on the basis of possession and the third party is therefore a necessary party. It is this order which is impugned.

4. I need not delve deeper in the reasons recorded by the learned Judge who has assumed that since the provisions under Civil Procedure Code 1908 are applicable, the Application deserves to be allowed.

5. The learned counsel for the Petitioner and the learned counsel for Respondent 1 are align to the legal position that proceedings under the Act neither decides nor confers title.

6. The learned counsel fairly agree that the scope of the proceedings is limited to deciding the status of the application as heir and which determination in any event is subservient to the decision of the Civil Court, if any civil proceedings are initiated by aggrieved person.

7. Even de hors the fair submission I am satisfied that no prejudice shall be caused to the third party if he is not permitted to participate in the proceedings.

8. Right and claim of the third party, on the basis of possession or otherwise is not likely to be affected even if heirship

certificate is granted to the petitioners and it shall be open to the third party to agitate such right and claim in the appropriate proceedings.

9. In this view of the matter the order impugned is set aside. The petition is allowed in terms of prayer clauses (b) and (c) subject to the observations supra. The Interim Application is disposed of.

(ROHIT B. DEO, J.)