

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CIVIL REVISION APPLICATION NO.15 OF 2021

(Prakash Rajaram Khasbage Vs. Vinod Vishnu Khasbage (dead), Smt. Mona Vinod Sisodiya & anr.)

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri S.M. Vaishnav, Advocate for the applicant.
Shri G.B. Mate, Advocate for respondent Nos.2 and 3.

CORAM : M.S. KARNIK, J.
DATED : APRIL 13, 2022.

After arguing the revision application for sometime, the learned counsel for the applicant submits to the court directed by the Appellate Court i.e. to file an application for revocation of the legal heir-ship certificate issued in favour of Vinod Vishnu Khasbage, who is since deceased.

2. Learned counsel for the legal representatives of Vinod Vishnu Khasbage, who are stated to be Smt. Mona Vinod Sisodiya and Gopi Vinod Sisodiya, submits that the heir-ship certificate has been obtained by practicing fraud. This stand was taken by them before the Appellate Court and even now before this Court. Learned counsel for respondent Nos.2 and 3, who claim to be the heirs of Vinod Vishnu Khasbage, reiterates the stand that the legal heir-ship certificate was obtained by Vinod by practicing fraud.

3. The provisions of Section 383 of Indian Succession Act, 1925 makes it clear that the certificate

granted under Part X of the Indian Succession Act may be revoked, if the certificate was obtained fraudulently by making of a false suggestion, or by the concealment from the Court of something material to the case.

4. In this view of the matter, learned counsel for the applicant submits that instead of pressing this civil revision application, the applicant will be well advised to pursue his remedies under Section 383 of the Indian Succession Act, 1925. He however submits that having regard to the admission of the applicant's contentions by respondent Nos. 2 and 3, the proceedings for revocation which the applicant proposes to file be expedited.

5. Learned counsel submits that the applicant – Prakash Rajaram Khasbage is the real brother of Vishnu Rajaram Khasbage. There is a partition suit filed by Smt. Chandrakala Wankhede, the sister of Prakash and Vishnu which is pending before the Competent Civil Court. The suit is proceeding. He submits that any order in favour of the applicant on the issue of revocation of the succession certificate granted in favour of Vinod Vishnu Khasbage will have a material bearing on the suit for partition.

6. It is in this view of the matter that a request is made by the applicant that the proceedings proposed to be filed under Section 383 of the Indian Succession Act, 1925 for revocation of the Succession Certificate granted in favour of Vinod Vishnu Khasbage be expedited.

7. Learned counsel for respondent Nos.2 and 3 submitted that they have been taking a consistent stand that the heir-ship certificate has been fraudulently obtained by Vinod Vishnu Khasbage and are firm on it.

8. Learned counsel for the applicant on instructions seeks leave to withdraw the present civil revision application. In the peculiar facts and circumstances stated herein before, I am inclined to make certain observations for expeditious disposal of the proceedings that may be initiated by the petitioner under Section 383 of the Indian Succession Act, 1925 before the Court which granted the legal heir-ship certificate.

9. I have not expressed any opinion on the merits of the contentions as the same may require factual determination by the Court which granted the heir-ship certificate in an application that may be filed for revocation under Section 383 of the Indian Succession Act. Hence, the following order :

(i) Keeping all contentions open, the civil revision application is allowed to be withdrawn.

(ii) I may not be understood to have made any observations on the contentions raised in the civil revision application.

(iii) If within a period of three weeks from today appropriate application is made by the applicant for revocation of the heir-ship certificate granted in favour of Vinod Vishnu Khasbage to the Court

which issued such certificate, it is requested that such proceedings be decided on merits as expeditiously as possible and in any case within a period of nine months from today.

(iv) The application, if filed under Section 383 of the Indian Succession Act, 1925 may be decided on its own merits in accordance with law without being influenced by any observations made by me in this order or those made by the Appellate Court.

10. Subject to the above, the civil revision application is disposed of as withdrawn.

JUDGE

**DB*