

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

WRIT PETITION NO.3458/2021

Sau. Deepali Parag Pande

...Versus...

3rd Joint Civil Judge, Junior Division, Achalpur, through Registrar District and Sessions Court, Achalpur and others

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

Court's or Judge's orders

Shri S.M. Vaishnav, Advocate for petitioner

CORAM : AVINASH G. GHAROTE, J.

DATE : 10/10/2022

1. Shri Vaishnav, learned counsel for the petitioner submits that though the respondent no.2 is shown to have passed away, the petitioner as well as the respondent nos.3 and 4 are the only legal representatives, considering which, the matter can be proceeded ahead.

2. Heard Shri Vaishnav, learned counsel for the petitioner. None appears for the respondents, though served. At the outset, learned counsel for the petitioner seeks leave to delete the name of respondent no.2.

3. Leave is granted. The name of respondent no.2 be deleted from the array of the respondents. The deletion be carried out forthwith.

4. The impugned order dated 20/06/2020 (pg.20) directs filing of a valuation report in respect of the properties in question in order to determine the duty as per Article-10 of the Maharashtra Court Fees Act thereupon. The application is for seeking certificate under the Bombay Regulation VIII of 1827. In *Shri Ganpati Vinayak Achwal 2015 (2) ALL MR 285*, it has been held that the heirship certificate does not bestow the status of an heir upon a person but only a formal recognition of his existing status as an heir. The provisions of Article-10 of Schedule-I of the Maharashtra Court Fees Act require imposition of court fee upon probate of a will or letters of administration, considering which, Article-10 of the Maharashtra Court fees Act is clearly not attracted in the proceedings under the Bombay Regulation VIII of 1827, considering which, the impugned order insofar as operative para 3 is concerned, is hereby quashed and set aside. The writ petition is accordingly partly allowed. No order as to costs.

(AVINASH G. GHAROTE, J.)

Wadkar