

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.13251 OF 2022

Manisha Rajendra Nalge

.... Petitioner

Versus

The State of Maharashtra
and others

.... Respondents

.....

Mr. Amol S. Gandhi, Advocate for the Petitioner

Mr. P.N. Kutti, AGP for Respondent Nos. 1 and 2

Mr. D.B. Rode, Advocate for Respondent Nos.4 to 9

.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 26th JUNE, 2023

ORDER :

1. The petitioner is aggrieved by the order passed by the learned Civil Judge, Senior Division, Shrigonda, below Exhibit-31 in Regular Civil Suit No.195 of 2019.

2. Suit was filed by Dadarao Devram Nalge for declaration. During the pendency of suit, Dadarao expired and the present petitioner claiming to be his legal representative filed application Exhibit-31 under Order I Rule 10 and Order VI Rule 17 of the Code of Civil Procedure, seeking permission to allow herself to be brought on record as legal representative of deceased plaintiff. She claimed that, by way of registered will

deed, she is given the suit property by the deceased plaintiff. The Trial Court has partly allowed the application and permitted the petitioner to substitute her as legal representative of the deceased plaintiff, along with other seven natural legal heirs and legal representatives. The petitioner is aggrieved by the direction given by the Trial Court to implead other seven natural legal heirs and legal representatives of the deceased.

2. Heard the learned advocate for the petitioner, learned advocate for Respondent Nos.4 to 9, and the learned Assistant Government Pleader for Respondent Nos.1 and 2. Perused the writ petition memo, annexures thereto, and the impugned order.

3. The learned advocate for the petitioner submits that the petitioner has also filed Regular Civil Suit No.287 of 2022 for declaration on the basis of registered will deed. According to him, in the said suit also, though summons were served on other seven natural legal heirs/legal representatives of deceased plaintiff, they have not appeared, and the Trial Court has passed *ex parte* order against them. He, therefore, states that since the petitioner is claiming the suit property on the basis of registered will deed, remaining seven legal

representatives/legal heirs are not necessary parties, and the Trial Court has committed an error in directing their impleadment.

4. Admittedly, the suit filed by the petitioner seeking declaration on the basis of registered will deed is pending. She is yet to be declared the owner of the suit property on the basis of registered will deed. Till the suit is decided, all the legal heirs/legal representatives of the deceased plaintiff are entitled to claim share in the suit property. In that view of the matter, the Trial Court is justified in directing impleadment of other seven natural legal representative/legal heirs of the deceased plaintiff. The Trial Court has passed a reasoned order.

5. There is no illegality or perversity in the order impugned in the petition. The writ petition being devoid of substance is dismissed. No costs.

[NITIN B. SURYAWANSHI]
JUDGE

S.P. Rane