

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

910 CRA NO.263 OF 2013

HALIMA ISMAIL SHAIKH AND OTHERS
VERSUS
LATIFA BEGUM IBRAHIM SHAIKH AND OTHERS

...
Advocate for Petitioners/Applicants : Mr. Warad Sunil V.
Advocate for Respondent Nos.1 to 3 : Mr. Kazi S. S.

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CORAM : S. G. MEHARE, J.
DATE : 29.08.2023

PER COURT :-

1. Heard the learned counsels for the respective parties.
2. There were two concurrent findings against the respondents. An inquiry was made under the Bombay Regulation Act about heirship and it has been held that they failed to prove their heirship.
3. Learned counsel for the applicants would submit that two children were born out of the relationship between Ismail Shaikh and Halima. The law protects the rights of such children. The school leaving certificate filed today shows, they were the children of Ismail Shaikh.
4. Learned counsel for the respondents would submit that it is just an inquiry, affecting no rights of the parties to get

declared the validity of marriage and legitimacy of children. Even if, heirship is denied in the inquiry under the Bombay Regulation Act, the right to seek the declaration before the competent Court is always open.

5. It appears that applicant No.1 is claiming to be the legitimate wife of deceased Shaikh Ismail and the applicant Nos.2 and 3 were claiming to be the legitimate sons of Shaikh Ismail.

6. The Law is settled that the heirship decided under the Succession Act or the Bombay Regulation Act is not final. Any party aggrieved by such orders can prove their status as provided under the law before the competent Court. In view of the provisions of law, the Court is of the view that the issue raised cannot be decided in a simple inquiry as provided under the Bombay Regulation Act and Succession Act. There is no substantial grounds to determine the rights of the parties.

7. Hence, without affecting the rights of the applicants to get declared their status before the competent Court of law, the civil revision application stands dismissed.

(S. G. MEHARE, J.)

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vmk/-