

AGK

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

WRIT PETITION NO.10420 OF 2023

Nita Bhalchandra Dhumale ... Petitioner
V/s.
Sushila Dattatraya Dhumale & Anr. ... Respondents

Mr. Anand S. Patil for the petitioner.

Ms. Rati S. Sinhasane for the respondents.

CORAM : AMIT BORKAR, J.

DATED : AUGUST 25, 2023

PC.:

1. Challenge in this writ petition under Article 227 of the Constitution of India is to the order dated 19 June 2023 rejecting application filed by respondent Nos.1 and 2 seeking succession certificate. Said proceeding is defended by the petitioner denying her marriage with Bhalchandra Dattatraya Dhumale. In the written statement filed, the date of marriage was mentioned as 30 March 2016. After examination of one witness, the petitioner realized the mistake and, therefore, filed application to correct the date mentioned in the written statement to replace the date from 30 March 2016 with 20 March 2016.

2. The Trial Court rejected the application by holding that the petitioner has failed to prove due diligence.

3. On consideration of nature of proceedings and the fact that proceedings are summary in nature, parties need to be allowed to amend clerical mistakes. On consideration of the allegations made by the parties, substitution of date of date is nothing but typographical error. Therefore, the Trial Court was not justified in rejecting such application, particularly in a proceeding under Section 372 of the Indian Succession Act where substantive rights of the parties are not adjudicated.

4. In the result, the impugned order cannot be sustained. Hence, following order:

a) Application below Exhibit 70 in Civil Miscellaneous Application No.76 of 2020 is allowed;

b) Necessary amendments to be carried out within one week from today.

5. The writ petition stands disposed of in above terms. No costs.

(AMIT BORKAR, J.)