

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

INTERIM APPLICATION NO.20322 OF 2022

IN

FIRST APPEAL NO.789 OF 2017

Harakchand Uttamchand Khinvasara

(Deceased) through His Legal Heir

Rajan H. Khinvasara

.....Applicant

IN THE MATTER OF :

Harakchand Uttam Khinvasara

....Appellant

Vs.

Jaisingh Vitthalrao Mhaske and Ors.

.....Respondents

WITH

CIVIL APPLICATION NO.2651 OF 2018

IN

FIRST APPEAL NO.789 OF 2017

Mr. Samarth Chowdhary i/b. M/s. IndusLaw for applicant.

Mr. Anshuman R. Asare for respondent nos.54 to 59.

CORAM : K. R. SHRIRAM &

RAJESH S. PATIL, JJ.

DATED : 23rd MARCH 2023

PC. :

INTERIM APPLICATION NO.20322 OF 2022

1 On 14th February 2023 the following order came to be passed :

1. All respondents have not been served and Mr. Chowdhary seeks three weeks more time to serve. Moreover, there is nothing to indicate that applicant is the only legal heir. Mr. Chowdhary states that before the next date he will obtain evidence to prove that the averment in Paragraph No.3 of the application is true and applicant is the only legal heir.

2. Stand over to 14th March 2023.

2 Mr. Chowdhary states that applicant has filed an affidavit dated

9th March 2023 in which it is stated that original appellant had executed an

unregistered Will dated 20th November 1995 in which the names of the other legal heirs of the deceased appellant also are mentioned. The suit property was bequeathed to applicant. Original appellant died on 26th November 2020. On 29th November 2021 all the legal heirs including applicant have executed the Deed of Confirmation by which the legal heirs have ratified bequeathal of the property of the deceased appellant including the suit property to applicant. A copy of the Deed of Confirmation dated 29th November 2021 is also annexed to the affidavit.

3 Mr. Chowdhary also states that since none of the properties are in Bombay and the Will also was executed in Pune, probate was not compulsory and, therefore, the legal heirs have come to this arrangement by way of Deed of Confirmation. Mr. Chowdhary states that applicant was the executor and has executed the Will.

4 In view thereof, application is allowed and accordingly disposed.

5 We clarify no consequential amendments are permitted.

(RAJESH S. PATIL, J.)

(K. R. SHRIRAM, J.)