

VRJ

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.14988 OF 2022

VAIBHAV
RAMESH
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Tarabai Vitthal Salunkhe Since Deceased
Through Her Legal Representative ... Petitioner
V/s.
Anandarao Sahebrao Saste & Ors. ... Respondents

Mr. Pradeep S. Gole for the petitioner.

Mr. Akshay Shinde for respondent Nos.1 to 5.

CORAM : AMIT BORKAR, J.

DATED : NOVEMBER 4, 2023

PC.:

1. By this writ petition under Article 227 of the Constitution of India, the petitioner is challenging order dated 7th October 2022 passed by the Appellate Court rejecting petitioner's application seeking permission to bring on record evidence to prove Will dated *12th February 2020* executed by the appellant, Tarabai. According to the parties, there was one more Will executed by Tarabai on 12th February 2020.

2. Learned advocate for respondent Nos.1 to 5 makes a statement, on instructions from respondent No.1 who is present in Court, that the respondents accept petitioner as heir and legal representative of Tarabai as defined under section 2(11) of the Civil Procedure Code, 1908.

3. In that view of the matter, whatever right to sue conferred on Tarabai shall survive on the petitioner.
4. The Appellate Court in paragraph 6 has already protected parties right by permitting them to get their rights adjudicated if there be any dispute in relation to Will dated 12th February 2020.
5. Once the petitioner is accepted as heir and legal representative within the meaning of section 2(11) of the Civil Procedure Code, 1908, in so far as Regular Civil Appeal No.25 of 2016 is concerned, the petitioner will be entitled to succeed rights of Tarabai. Hence, there is no reason to interfere with the impugned order.
6. The writ petition stands dismissed. No costs.

(AMIT BORKAR, J.)

Note:- This order is modified as per order dated 10th November 2023. The corrections in paragraph 1 are shown in italicize.