

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR
Writ Petition No.7924 of 2022**

Vikram Bhalchandra Ghongade Vs. Shri Bhalchandara Bhimrao Ghongade

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Petitioner in person present

**CORAM : ANIL S. KILOR, J.
DATED : 10.02.2023**

1. Heard.
2. In this petition, the judgment and order dated 08.07.2022 passed by the District Judge Ad hoc 2, Wardha, maintaining the order below Exh.1 dated 28.01.2021 passed by the 5th Jt. Civil Judge Senior Division, Wardha, granting heir-ship certificate in joint name of the petitioner as well as his father, is under challenge.
3. The petitioner in person, opposes the order of the trial Court on the ground that as the respondent did not appear in the proceeding before the trial Court and no objection was raised by him to the appeal under *Rule 8 of the Bombay Regulation VIII of 1827*, the learned 5th Jt. Civil Judge Senior Division Wardha ought to have granted Heirship Certificate only in the name of the petitioner. For this purpose, he has placed a reliance upon the judgment of the Co-ordinate Bench of this Court in the case of *Shri Ganpati Vinayak Achwal¹*.

¹ 2015(2) ALL MR 285

4. The respondent-sole is served by paper publication, however, none appears on behalf of the respondent.
5. The copy of appeal memo filed by the petitioner under *Rule 8 of the Bombay Regulation VIII of 1827* is not filed along with this petition, however, it is made available by the petitioner for perusal.
6. In the appeal, it is the case of the petitioner that the mother of the petitioner married with the respondent in 1989 at Wardha and the petitioner was born out of the said wedlock on 21.05.1990. It is further case of the petitioner that the respondent i.e. the father of the petitioner, drove him and his mother from his mother's matrimonial house, since then they started living at the house of the maternal grandparent of the petitioner.
7. From the pleading in the appeal, it is clear that he is not denying the relation with the father i.e. the respondent and considering the said fact, the learned trial Court after observing that the petitioner and the respondent are the surviving legal heirs of deceased Vinita Arjunrao Thakre and though no objection was raised by the respondent, the Heirship Certificate was granted in the name of the petitioner and his father.
8. This Court, in the case of *Shri Ganpati Vinayak Achwal* (supra) in Paragraph No.5, has held thus:

“5. The position of law that emerges from the above provisions is that, an heirship certificate does not bestow the status of an heir upon a person. Grant of such a certificate is only a formal recognition of his existing status

as an heir. An heir or executor or legal administrator, by his such status, can assume management of the property of the deceased even without a formal recognition by the Court. A person may obtain heirship certificate in any of the three situations i.e. (i) if he so desires (ii) where his right as an heir is disputed, and (iii) in order to give confidence to the persons in possession of or indebted to the estate and to deal with them. Thus grant of heirship certificate is solely, for the convenience of the heir. Beyond that, it is of no significance. The rules also indicate that, it is mandatory for the Court to issue an heirship certificate, if after publication of citation, no objector comes forward within one month from the date of publication. In that case, the Court shall forthwith receive such proof as may be offered of the right of the person making the claim, and if satisfied, shall grant a certificate in the prescribed form declaring him the recognized heir of the deceased. The scope of such enquiry is limited to ascertain the claim of heirship of the applicant. The petitioner's claim and the impugned order are required to be appreciated against the above legal position.”

9. Thus, it is clear that, an Heirship Certificate does not bestow the status of an heir upon a person. Grant of such a certificate is only a formal recognition of his existing status as an heir.

10. Hence, considering the fact that the petitioner is not disputing the status of his father and also not disputing that the respondent is the surviving legal heir along with the petitioner after the death of mother of the petitioner, no error has been committed by the learned trial Court in issuing the Heirship Certificate in the joint name of petitioner and his father. Accordingly, the writ petition is **dismissed**.

[ANIL S. KILOR, J.]
 Digitally signed by NIRANJAN
 D. A. J. THAWRE
 Signing Date: 13.02.2023
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