

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Writ Petition No.1400/2019

Anil V Sau. Vandana

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Mr. R.A. Gupte, Adv. for petitioner.

Mr. M.A. Randive, Adv. for respondent.

CORAM : AVINASH G GHAROTE, J.

DATE : 24-01-2023

Heard the learned Counsel for the parties.

2. The petition challenges the order dated 13-11-18 passed by the learned trial Court, whereby the application exh-11 filed by the respondent raising an objection to the proceedings instituted by the petitioner for grant of probate has been allowed (pg 36). Mr Gupte, learned Counsel for the petitioner, submits that the respondent has no concern whatsoever with the proceedings in question as she is not beneficiary and therefore the impugned order is clearly not sustainable. A perusal of Sec. 286 of the India Succession Act, 1925, indicates that a probate shall not be granted in any case in which there is contention to grant. The explanation thereto defines contention to mean the appearance of anyone in person or through counsel to oppose the proceedings, considering which, it is apparent that the provision, clearly contemplates intervention by a party to oppose the grant of probate. Grant of a probate would not have any bearing

upon any claim for any right or title and would be restricted to the probate itself, that by itself cannot mean that it would be impermissible for a person to appear and oppose the grant of probate.

3. That being the position, I do not see any reason to interfere in the petition, the petition stands dismissed. No costs.

JUDGE