



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 10352 OF 2021

**DEVKINANDAN HARIPRASAD AGRAWAL
VERSUS
VASANT LAXMANRAO PETKAR ALIAS PANDHARPURKAR**

Mr. P. N. Kalani, Advocate for petitioner
Mr. Tabrezuddin Quadri, Advocate for respondent.

CORAM : R. M. JOSHI, J.

DATE : 06th December 2024

PER COURT :-

1. This petition takes exception to order passed below Exh. 23 in Civil Misc. Application No. 81/2018 dated 07.01.2020.
2. Petitioner/applicant in the original proceeding filed application for revocation of legal heirship certificate issued in Misc. Application No. 392/2016 in favour of the respondent. In this proceeding vide application Exhibit 23 stay was sought to the said proceedings itself till disposal of R.C.S. No. 206/2017 for the reason that respondent had filed said suit in respect of the same property and wherein the issue of the heirship of the deceased is involved. It is his submission that since it is a substantive proceeding, application for the revocation of the heirship certificate granted cannot be continued.
3. There is no dispute about the fact that the respondents

obtain heirship certificate in M.A. No. 392/2016. As per the provisions of the Bombay Regulation Act, 1827, the revocation of such certificate can be done before the same Court only. Thus, the issue of revocation of the certificate can be agitated before the same Court and the proceedings filed by the petitioner before the Civil Judge Senior Division is an appropriate proceeding for the said purpose.

4. If it is a case of the petitioners that the issue of the heirship is involved in R.C.S No. 206/2017 and it is a substantive proceeding, then question of continuation of application 81/2018 for revocation of heirship certificate would not arise. Pertinently petitioner does not wish to drop the said proceeding but merely seeks stay thereof. However, for the purpose of revocation of the certificate the only remedy is available to file application before the same Court and as such, there is no impediment in both proceedings being undertaken and decided independently. Rejection of application by passing impugned order is not perverse to cause interference in the exercise of writ jurisdiction, hence, there is no substance in the petition.

5. Petitions stands dismissed.

(R. M. JOSHI, J.)

bsj