



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

929 WRIT PETITION NO. 15297 OF 2023

1. Smt. Mighila Karan Padmanabhan,
2. Shridharan Padmanabhan,
3. Aswathy Shridharan Padmanabhan.

...Petitioners

Versus

The State of Maharashtra.

...Respondent

...
Advocate for the Petitioner : Mr. Bedre Vinayak Sudhakar
AGP for Respondents-State : Mrs. P. R. Tandale
...

CORAM : R. M. JOSHI, J.

Dated : June 19, 2024

PER COURT :-

1. Heard. The petition is heard finally by consent of both sides.
2. This petition takes exception to the impugned Judgment dated 27/09/2023, passed by 6th Joint Civil Judge, Senior Division, Ahmednagar, in Civil Misc. Application No.171/2022 filed by the petitioners under Section 2 of the Bombay Regulation Act 1827, for issuance of heirship certificate.
3. Learned Counsel for the petitioners submits that the impugned Judgment is not sustainable in law as the application filed for the heirship certificate is rejected solely on the ground that the properties of the deceased are not disclosed in the application. According to him, this order is not consistent with the law laid down by this Court in case of ***Shri Ganpati Vinayak Achwal, reported in 2015 (2) All***

MR 285 and Judgment of this Court in case of **Salimabe w/o Shaikh Shabbir and Others vs. The State of Maharashtra, decided on 24/01/2020**. It is argued that like in case appointment of an administrator to the property, even in grant of heirship certificate, the Court within whose jurisdiction the property in respect of which the heirship certificate claim is situated will have the jurisdiction to entertain the same.

5. Perusal of the impugned Judgment shows that the application is not rejected for the reason that the properties are not mentioned by the applicant but it is rejected on the ground that there is nothing on record to indicate that the Court has territorial jurisdiction to try and entertain the application. It is observed that there is absence of pleading regarding the properties due left by the deceased, and therefore, the application is not entertained.

6. In considered view of this Court, learned Trial Court has committed error in not appreciating the provisions of the Code of Civil Procedure which permit a party to file the proceedings before the Court within whose jurisdiction the cause of action has arisen. Perusal of the application shows that deceased Karan Shridharan

Padmanabhan died on 04/05/2021 at Ahmednagar. The applicants are wife, father and unmarried sister of the deceased, and they are residents of Ahmednagar. Their pleadings are sufficient to entrust the jurisdiction to the Court to entertain the application.

7. Apart from this, for the purpose of heirship certificate, it is not necessary that a party/ applicant to specifically mention the properties of the deceased as the heirship certificate is nothing but only formal declaration/ recognition that the applicants are legal heirs of the deceased. In case of **Salimabe Shaikh Shabbir** (Supra) this Court has held that the order passed by the Trial Court about not giving reference to any particular property is incorrect.

8. In view of above discussion, the impugned Judgment is not sustainable and is set aside. Civil Misc. Application No.171/2022 is relegated back to the Trial Court for decision afresh on merits.

9. The petition stands allowed in above terms.

(R. M. JOSHI, J.)

vj gawade/-.