

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8836 OF 2023

Vanita Subhash Lala and Ors.

.. Petitioners

Versus

Puj. Dharmwadi Panchayat Trust its President
and Ors.

.. Respondents

WITH
INTERIM APPLICATION NO.341 OF 2024
IN
WRIT PETITION NO.8836 OF 2023

-
- Mr. Girish Agrawal a/w. Mr. Monish Bhatia and Mr. Shubham Jangam, Advocates for Petitioners.
 - Mr. Raj Chandwani, Advocate for Respondent No.2.
 - Ms. Taruna Kaur Sodhi a/w. Ms. Minal Chandnani, Advocate of Intervenor in Interim Application No.341 of 2024
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CORAM : MILIND N. JADHAV, J.

DATE : FEBRUARY 13, 2024

P.C.:

1. Heard Mr. Agrawal, learned Advocate for Petitioners, Mr. Chandwani, learned Advocate for Respondent No.2 and Ms. Sodhi, learned Advocate for Intervenor in Interim Application No.341 of 2024.

2. This Writ Petition takes exception to the impugned order dated 19.11.2022. By virtue of the said order, Application filed below Exhibit-58 in Miscellaneous Application No.466 of 2018 has been declared to be maintainable.

3. Miscellaneous Application No.466 of 2018 is an Application

filed for seeking heirship certificate in respect of legal heirs of deceased Bakhatram Pahilajrai Talreja.

4. Bakhatram Pahilajrai Talreja expired on 23.03.1988. Miscellaneous Application No.466 of 2018 is filed on 06.09.2018 by his four daughters and heirs of his only son Brijlal Talreja. Another daughter called Shankuntala has expired. On being asked as to why heirship certificate is filed after a delay of more than 20 years, Mr. Agrawal would contend that the entire family alongwith Bakhatram Pahilajrai Talreja had shifted to Ahmedabad and it is only after 20 years of his demise the family returned to Maharashtra and after taking search realised that there was one immovable property i.e. plot admeasuring 999 square yards in Ulhasnagar which belonged to the said Bakhatram Pahilajrai Talreja. In the Application seeking heirship certificate for declaration of heirs of deceased Bakhatram Pahilajrai Talreja, there is specific reference in paragraph No.2 to this property at Ulhasnagar.

5. It is trite that Application seeking legal heirship certificate cannot be construed as any documentary evidence of title or entitlement been given by the Court or an imprimatur of the Civil Court entitling the heirs of the deceased to claim title the property which is stated in the Application, if the title to the said property is clearly disputed. That is exactly the case herein.

6. Before me I have got two disputants. Mr. Chandwani represents disputant Balu Sitaram Ambedkar whereas Ms. Sodhi represents the Intervenor – Puj. Dharmwadi Panchayat Trust i.e. a trust.

7. It is contended by the trust that they have since the year 1948 been in possession of the subject property which finds mention in the heirship Application and the apprehend that on grant of legal heirship certificate to heirs of Bakhatram Pahilajrai Talreja, their possession would be jeopardised or challenged or questioned. It is once again clarified that grant of legal heirship to the deceased heirs shall not be construed as documentary evidence of title to the disputed property. This necessarily means that any party who is aggrieved can approach the appropriate Civil Court having appropriate jurisdiction and file appropriate proceedings as advisable and strictly in accordance with law. Trust cannot intervene and object to grant of heirship certificate to the legal heirs of deceased.

8. The second disputant is Mr. Balu Sitaram Ambedkar. He seeks impleadment in Miscellaneous Application No.466 of 2018 and would contend that in view of forgery and fabrication of documents produced in the Court by the legal heirs there is a dispute about ownership of the subject property which finds mention in the heirship Certificate Application. He would contend that dispute is pending

before this Court and Settlement Commission and other Competent Authorities. Locus of the disputant is challenged by Petitioners. And certainly so. This disputant claims to be emotionally attached to the said property as argued by Mr. Agarwal.

9. Be that as it may, I once again clarify and reiterate that whatever be the objections of Mr. Balu Sitaram Ambedkar on the issue of maintainability of his intervention under Section 209 of Indian Penal Code, 1860 read with Section 340 of Criminal Procedure Code, 1973 any challenge to the heirship certificate on the ground of dispute as claimed will have to be maintained separately in an appropriate proceedings and Court of law. No challenge can be maintained by either Mr. Balu Sitaram Ambedkar in the Application seeking heirship Certificate nor the Trust and if at all there is any right of the said Mr. Balu Sitaram Ambedkar being transgressed, opportunity is given to him and the Trust to file appropriate proceedings as advised and if so permissible in the appropriate forum / Court and strictly in accordance with law.

10. Needless to state that the impugned order dated 19.11.2022 stands quashed and set aside in view of the above observation and findings. Miscellaneous Application No.466 of 2018 shall be proceeded by the Court strictly in accordance with law and shall be disposed of by the learned Trial Court within a period of four weeks

from today.

11. I once again clarify that all contentions of the trust as also Mr. Balu Sitaram Ambedkar as available to them in law are kept expressly open, if they so desire to approach the appropriate forum / Court with respect to any of their substantive rights in the subject property or any other property belonging to Bakhatram Pahilajrai Talreja. For that matter and if so done by them the same shall be strictly in accordance with law.

12. With the above observations and findings, Writ Petition stands allowed and disposed. In view of this order Interim Application No.341 of 2024 is also disposed.

13. All parties are directed to act on an authenticated copy of this order.

H. H. SAWANT

[MILIND N. JADHAV, J.]

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