

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

Writ Petition No.8066 of 2024

Dr. Shubhada Mithilesh and anr. ... Petitioners
V/s.
Mr. Prabhakar Deolankar and others ... Respondents.

**WITH
Writ Petition No.9110 of 2024**

Abha Dastane – Rao ... Petitioners
V/s.
Mr. Prabhakar Deolankar and others ... Respondents.

Mr. Hemant Ghadigaonkar	Advocate for the Petitioners in WP No.8066/24 and for Respondent Nos.33 and 34 in WP No.9110/24
Mr. S.N. Chandrachud	Advocate for Respondents in both writ petitions.
Mr. P.J. Pawar	Advocate for Respondent No.35 in both writ petitions.
Ms. Abha Dastane Rao	Petitioner in person in WP No.9110/24 and for Respondent in WP No.8066/24.

CORAM : S.M. MODAK, J

DATE : 16 December 2024.

P.C. :

Heard learned Advocate Shri Ghadigaonkar for the petitioners and the petitioner-Ms. Abha Dastane Roa present in person. Also

heard learned Advocate Chandrachud and learned Advocate Pramod Pawar for the respondents.

2. There was a probate granted by Civil Court, Pune. There were two applications filed for revocation of probate. One is by the petitioner-Dr. Shubhada Mithilesh and second by petitioner-Abha Dastane Rao. There were injunction applications filed below exhibit 5. Mr. Ghadigaonkar has invited my attention to one of such application. It is on Page-85 in WP No.8066/2024. There are several prayers made in Para No23, Page-90 whereas the application for revocation of probate is on page No.69 and prayers are on Page No.83. For convenience purpose only Writ Petition No.8066/24 is referred.

3. The trial Court though granted ad-interim relief on 3 January 2008 (Page-98). Finally Exhibit-5 was rejected on 29 November 2012 (Page-121). When the appeal was filed, it was dismissed by the appellate Court on 21 December 2012 (Page-161 to 166). That is why present writ petition.

4. In Writ Petition No.9110/2024 there was also an application for grant of interim-relief (Page Nos.63-68) whereas application for revocation of the probate is on Page Nos. 94 to 103. The trial Court has granted exparte ad-interim injunction on 3 January 2008 (Page 69). Finally, the trial Court has rejected the application on 29 November 2012 (Page Nos.70 to 92). Misc. Civil Appeal came to be

dismissed by the District Court on 14 July 2023 (Page Nos.107-123). That is why present writ petition.

5. It is a matter of record that there are several proceedings going on or disposed of in between contesting parties. It is also true that the Courts below, this Court and even Hon'ble Supreme Court has passed various orders. Those orders are passed considering the issues raised and decided in those matters. If any of the party wants to rely upon those observations, they have to show to this Court how those observations are relevant. In these writ petitions, Court is considering whether orders passed by both the Courts below are proper or not? The Court has to restrict itself to the material placed by both the parties before the trial Court.

6. Let both the parties to verify **as to whether the material pleadings are placed on record or not?** If they have not done it, **they are directed to place those documents on record by the party who has placed reliance on that.** If any of the parties want to rely upon and refer any material which is not part of the record of the trial Court, they can do so only by satisfying this Court that it can be considered while deciding these writ petitions.

7. Stand over to **5 February 2025**, First on Board.

8. There is a request on behalf of the power of attorney of the executor to tag their petition along with present two petitions. It is an admitted petition. It will come in the normal course. It can be

tagged to this petition if the petitioners consent for the same or if the concerned respondents will file an application for early hearing of this petition.

(S.M. MODAK, J.)