

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**APPEAL NO.76 OF 2024
IN
MISCELLANEOUS PETITION (L) NO.24140 OF 2023
IN
MISC. PETITION NO.357 OF 2023
ALONG WITH
INTERIM APPLICATION NO.1041 OF 2024
IN
APPEAL NO.76 OF 2024**

Gitadevi Ramprakash Podar : Appellant/Applicant.

V/s.

Pragnesh Narayan Podar & ors. : Respondents.

Mr. Rajiv M. Kumar, Senior Advocate a/w Ms. Priyanka Bhandari and Mr. Sanket Dhawan for the Appellant.

Mr. Zal J. Andhyarujina, Senior Advocate a/w Mr. Chaitanya Mehta, Mr. Prerak A Sharma, Ms. Serena Jethmalani, Mr. Aamir Ali Shaikh and Ms. Sonali Aggarwal i/by Dhruve Liladhar & Co. for Respondent No.1.

Mr. Sharan H. Jagtiani, Senior Advocate a/w Mr. Chaitanya Mehta, Mr. Prerak A Sharma, Mr. Akshay Doctor, Mr. Aamir Ali Shaikh and Ms. Sonali Aggarwal i/by Dhruve Liladhar & Co. for Respondent No.2.

Mr. Karl F. Tamboly a/w Mr. Chaitanya Mehta, Mr. Prerak A Sharma, Ms. Sonali Aggarwal and Mr. Aamir Ali Shaikh i/by Dhruve Liladhar & Co. for Respondent No.3.

**CORAM : DEVENDRA KUMAR UPADHYAYA, CJ. &
ARIF S. DOCTOR, J.
DATE : 15th APRIL 2024**

P.C. :

1. The Appellant is aggrieved by an order dated 12th February 2024 by which Miscellaneous Petition (L) No.24140 of 2023 ("*the Petition for revocation*") came to be dismissed.
2. The Appellant had filed the Petition for revocation in respect of Legal Heirship Certificate granted to the Respondents of one Narayan Podar ("the Deceased").
3. Mr. Kumar, Learned Senior Counsel appearing on behalf of the Appellant, has submitted that Appellant is the mother of the Deceased and that the Legal Heirship Certificate has been obtained by the Respondents by suppressing this fact. He points out that even though the Appellant has filed a Suit [being Suit (stamp) No. 15592 of 2023] *inter alia* seeking a one fourth share in the estate of the Deceased, no mention of this fact was made in the Miscellaneous Petition filed by the

Respondents for the grant of a Legal Heirship Certificate i.e. Miscellaneous Petition No.357 of 2023 (*"the Petition for Legal Heirship Certificate"*). Thus, it is the submission of Learned Senior Counsel that Legal Heirship Certificate has been obtained by a fraud practiced upon this Court by Respondent No.1/the Respondents. He submitted that the Learned Judge had gravely erred in failing to appreciate this and had incorrectly dismissed the Petition for revocation. He thus submitted the present Appeal deserved to be admitted and that the interim reliefs prayed for by the Appellant in the captioned Interim Application (i.e. Interim Application No. 1041 of 2024) be allowed, viz.

"(a) Pending the hearing and final disposal of Appeal the Hon'ble Court be pleased to stay order dated 12/02/2024 and order dated 11/07/2023 and/or further stay the implementation, execution and effect of the Heirship certificate granted to Respondents in Misc. Petition No.357 of 2023;

(b) Pending the hearing and final disposal of the Appeal, the Respondents be restrained by an Order and Injunction of this Hon'ble Court from acting upon or using the Certificate granted by order dated 11.07.2023 in any manner

whatsoever or the Respondents be put to such terms as this Hon'ble Court deem fit and proper."

4. *Per contra*, Mr. Andhyarujina, Learned Senior Counsel appearing on behalf of Respondent No.1, opposed admission of the present Appeal as also grant of any ad-interim relief. He submitted that while the Appellant was the biological mother of the Deceased, the Appellant and her Husband, the late Ramprakash Podar had infact given up the Deceased in adoption to one Tejpal Podar, who was the brother of her late husband i.e. Ramprakash Podar. Mr. Andhyarujina submitted that the Appellant was therefore not a legal heir of the Deceased, who would have to be named in the Petition for Legal Heirship Certificate, nor was any fraud practiced upon the Court by the Respondents for obtaining Legal Heirship Certificate. He submitted that none of the legal heirs of the Deceased had any objection to the grant of the Legal Heirship Certificate and the question of issuance of proclamation did not arise. He thus submitted that the Legal Heirship Certificate had correctly been granted in compliance with Bombay Regulation VIII of 1827 and

that there was no infirmity with the Impugned Order on any ground.

5. Mr. Jagtiani, Learned Senior Counsel appearing on behalf of Respondent No.2, additionally pointed out that the Appellant had by filing the Petition for revocation taken a stand diametrically opposite to the stand taken in Suit filed by her. He pointed out that in the Suit, the Appellant had sought a declaration that the Appellant was the mother of the Deceased whereas in the Petition for revocation the Appellant claimed that she was the mother of the Deceased. He then submitted that the contention of the Appellant that there was suppression of the Suit filed by the Appellant in the Petition for grant of Legal Heirship Certificate was also baseless since the Petition for grant of Legal Heirship Certificate was filed in the year 2021 and the Appellant had filed the Suit subsequently, in the year 2023.

6. After having heard the Learned Senior Counsel, we find that the captioned Appeal deserves to be admitted. Hence, **Admit.**

7. However, in so far as the prayer for interim relief is concerned, Mr. Andhyarujina, Learned Senior Counsel for Respondent No.1, points out and correctly so that the Legal Heirship Certificate has already been issued infact on 11th July 2023 and the Appellant's Application for revocation thereof has been dismissed on 12th February 2024 . Thus, presently the question of stay of the said grant in these facts does not arise. Mr. Kumar however submits that the Respondent. No. 1 be directed to maintain an account/s pursuant to the grant of the said Legal Heirship Certificate. Mr. Andhyarujina submits that Respondent No. 1 shall maintain accounts pursuant to the grant of the said Legal Heirship Certificate as is required of Respondent No. 1 under the provisions of Bombay Regulation VIII of 1827. The statement is accepted.

8. Interim Application is thus disposed of in terms of the above statement.

9. The captioned Appeal to come up for final hearing in due course.

10. Respondent No.2 to file Reply in the Registry.

(ARIF S. DOCTOR, J.)

(CHIEF JUSTICE)