



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
TESTAMENTARY AND INTESTATE JURISDICTION

MISC. PETITION NO.204 OF 2024

Sanjay Ambu Gite ... Petitioner

Bhimabai @ Bhimbai Genu Nagare ... Deceased

Mrs. Sujata Babar, for Petitioner.

**CORAM: N.J.JAMADAR, J.**

**DATE : 5 AUGUST 2024**

**PC.**

1. Heard the learned Counsel for the Petitioner.
2. This petition is filed for grant of heirship certificate under Section 2 of the Bombay Regulation VIII of 1827 in respect of Bhimabai @ Bhimbai Genu Nagare (deceased).
3. The deceased passed away on 28 December 2003. The Petitioner claims to be the son of Ambu Gotiram Gite, the brother of the deceased, who had predeceased the deceased on 27 April 1994. In paragraph No.4 of the Petition, the Petitioner has furnished the particulars of his brothers at 1b to 1e, who are also, according to the Petitioner, entitled to be declared as the legal heirs of the deceased.
4. In paragraph No.4 of the Petition, it is averred that Anjanabai Shankar

Chakor was the daughter of the deceased and she passed away on 13 February 2015.

5. In view of the aforesaid averments in paragraph No.4 of the Petition, on 10 June 2024 this Court passed the following order :

“2. The Petitioner, claims to be the nephew i.e. son of the brother of late Bhimabai Nagare. The Petitioner claims that he is the legal heir of the deceased Bhimabai Nagare, who passed on 28 December 2003. In the Petition, it is averred that the deceased had a daughter namely, Anjanabai, who died on 13 February 2015. Evidently, Anjanabai succeeded to the state to the deceased, who passed away in 2003. In the circumstances, the question as to whether the Petitioner can now claim heirship certificate, warrants consideration.”

6. Mrs. Babar, learned Counsel for the Petitioner, submitted that since Anjanabai Shankar Chakor, the daughter of the deceased, passed away on 13 February 2015 issueless, under Section 15 of the Hindu Succession Act, 1956, the property would devolve upon the heirs of the father of Bhimabai. The Petitioner and his brothers being the heirs of the father of Bhimabai, the deceased, they are entitled to the heirship certificate.

7. I am unable to persuade myself to agree with the aforesaid submission. Incontrovertibly, the deceased passed away on 28 December 2003, leaving behind her daughter, Anjanabai Shankar Chakor. As the deceased is stated to

have passed away intestate, under Section 15(1)(a) of the Hindu Succession Act, 1956, the property of the deceased would devolve upon Anjanabai on the day the succession opened.

8. Endeavour of Mrs. Babar to bank upon the provisions contained in sub-Section (2) of Section 15 does not commend itself as the property would devolve on the heirs of the father or husband, as the case may be, in the absence of any son or daughter of the deceased. Since Anjanabai Shankar Chakor was alive and succeeded to the estate of the deceased, the provisions contained in sub-Section (2) of Section 15 of the Act, 1956 have no application whatsoever.

9. Mrs. Babar attempted to wriggle out of the situation by asserting that Anjanabai, the daughter of the deceased also died issueless. It is pertinent to note that the Petitioner has not disclosed any particulars of the husband of Anjanabai namely Shankar B. Chakor. At any rate, the heirship certificate is claimed in respect of Bhimabai, who passed away on 28 December 2003. To put it in other words, the heirship certificate is not claimed in respect of Anjanabai Shankar Chakor. Therefore, a petition for grant of legal heirship certificate to lay claim over the immovable property described in the Schedule (Exhibit D), which devolved upon Anjanabai Shankar Chakor, on the death of the deceased, does not deserve to be entertained.

10. Hence, the Petition stands dismissed.

( N.J.JAMADAR, J. )