



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.6118/2023

Kusumbai Babandas Bairagi and Ors. .Vs. Mansaram Kisandas Bairagi and Ors.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. A. J. Thakkar, Advocate for petitioners.

Mr. M. V. Rai, Advocate for respondent nos. 1 to 3.

CORAM : ANIL L. PANSARE, J.

DATE : DECEMBER 9, 2024

Having heard at length, there appears no dispute that the respondents are legal heirs of Kisandas Devidas Bairagi. There is further no dispute that they have filed proceedings under Clauses 3 and 7 of the Bombay Regulation VIII of 1827 (hereinafter referred to as the "Regulation") seeking heirship certificate. The only issue is that while seeking said certificate, the respondents have pleaded that this certificate is required for the properties mentioned in the application. According to the petitioners, they are the owners of the properties, which status has been denied by the respondents.

2. The petitioners apprehend that under the garb of obtaining legal heirship certificate, the respondents may claim rights over the properties under question.

3. I do not find any substance in the aforesaid apprehension, for the simple reason that the proceedings under clauses 3 and 7 of the Regulation are meant for deciding as to who are the legal heirs of the deceased. Once it is decided that the respondents are legal heirs of Kisandas, they may claim

rights over the properties of Kisandas, in accordance with law. The proceedings under clauses 3 and 7 of the Regulation are not meant for deciding title over the property.

4. In the circumstances, the purpose of filing this petition will be served if it is clarified that the proceedings filed by the respondents shall be only for the purpose of deciding the legal heirs of Kisandas and no right over the disputed properties will be either ascertained or decided. On the basis of the findings so rendered in the aforesaid proceedings. The rights and title over the properties, if disputed by the parties, shall be decided before the appropriate forum, in accordance with law.

5. With the above clarification, the petition is dismissed. The petitioners may continue to participate in the proceedings filed by the respondents before the Trial Court. No order as to costs.

(Anil L. Pansare, J.)