



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

916 WRIT PETITION NO. 10658 OF 2019

SUNANDA SADASHIV KHANDAGALE AND ANOTHER

VERSUS

ARUN VASANTRAO KHANDAGALE AND ANOTHER

Mr. R.A. Tambe, Advocate for the petitioners.

Mr. Joslyn A. Menezes, Advocate for the respondents.

CORAM : KISHORE C. SANT, J.

DATE : 13.11.2025

PC :-

01. Heard learned Advocates for the parties. The petitioner is aggrieved by an order passed below Exh.27 in Succession Misc. Application No. 8 of 2019 passed by learned Civil Judge, Senior Division, Shrirampur dated 10.07.2019. The present petitioners have filed application in the proceeding under Succession Misc Application, filed under Bombay Regulation Act by the respondents, seeking deletion of description of properties given in the paper publication in the said proceeding. The apprehension is expressed in ground No. 10 of the petition that while issuing Heirship Certificate, the Court may mention the details of the properties. If such certificate is issued, it may be used to pose that the Court has recognized right of the parties over the properties mentioned in the certificate. Learned Advocate Mr. Tambe invited attention to the format under Rule 313 of the rules framed under the Bombay Regulation Act. He submits that while publishing the advertisement in the newspaper inviting objections, the contents of the applications are produced which show particulars of the properties. He

submits that the apprehension of the petitioner is well founded and therefore this petition is filed which needs to be allowed with direction either to delete the particulars of the properties or to direct the Court to issue Heirship Certificate strictly in the format as provided under the said Rule.

02. Learned Advocate for respondent Mr. Menezes vehemently argued that the petition is not maintainable as there is no cause of action. Rejection of application is rightly made by the learned Trial Court. No petition can be filed merely on the apprehension that the parties would use heirship certificate to claim right over the properties, those are mentioned in the application. At this stage, the parties cannot proceed under the impression the Court would issue certificate without adhering to Rule 313. Learned Advocate further argued that the petitioner is not legal heir of the deceased and is a third party.

03. This Court has heard the parties. The apprehension of the petitioner is because in the publication in news paper inviting objections, description of the properties is given. It is case of the petitioners that they have stakes in the properties and one of the properties stand in their name. Though said position is disputed, this Court finds that, same is not subject matter of present petition. The learned Trial Court while issuing certificate would certainly take necessary care. For that purpose even intervention of the petitioners is not required. Suffice it to say that the Court shall pass order in the format as given under Rule 313. During the arguments it transpires that it is general practice of the Trial Court to issue Heirship Certificate by reproducing the contents of the application

as contained in the decree passed in the suit. Needless to say that the proceedings of Heirship Certificate are not in the nature of creating or affecting rights of any the parties.

04. This Court feels that no purpose would be served by keeping this petition pending. This petition, therefore, stands disposed off in above terms. The concerned Court to issue the Heirship Certificate in prescribed format. Needless to mention that the interim order stands vacated.

[KISHORE C. SANT, J.]