



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

945 WRIT PETITION NO. 13437 OF 2024

VINOD KISHTAMMA NEMMANIWAR

VERSUS

MADHAV KISHATANNA NEMMANIWAR AND OTHERS

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Advocate for the Petitioner : Mr. Gangakhedkar Shailendra S.

Advocate for Respondent no.1 : Mr.Deshmukh Arvind S.

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CORAM : ROHIT W. JOSHI, J.

DATED : 18th June, 2025

PER COURT :

1. The present petition takes exception to the order dated 3rd September, 2024 passed by the learned Civil Judge, Senior Division, Nanded on application at Exhibit-61 in Civil Misc. Application No.423/2023. The respondent no.1 is the original applicant and respondent nos.2 and 3 are respondent nos.1 and 2 and the petitioner is respondent no.3 in the said application. An application at Exhibit-61 was filed by the petitioner seeking stay of proceedings under Section 10 of the Code of Civil Procedure in view of pendency of second appeal no.16/2024 before this Court.

2. The contention of the learned counsel for the petitioner is that the parties to the civil suit and proceedings under the Bombay Regulation Act are the same. He contends that since substantive appeal in relation to the properties of the parties is pending adjudication in the second appeal, it will be expedient that the proceedings under the

Bombay Regulation Act be stayed.

3. As against this, Mr. Arvind Deshmukh, the learned counsel for the respondent no.1 contends that the only declaration which is sought under the proceedings initiated under the Bombay Regulation Act is that the respondent no.1 is legal heir of his mother Bayakkabai Kishatanna Nemmaniwar and accordingly, legal heirship certificate may be issued in the name of respondent no.1 as her legal heir.

4. Perusal of the paragraph 2 of the application will demonstrate that according to respondent no.1, the original applicant, deceased Bayakkabai was holding CL-III licence and that the applicant was in need of legal heirship certificate for submitting the same to the Excise Department. The subject matter of the second appeal, which is pending consideration before this Court is in relation to properties left behind by deceased Bayakkabai. The question whether properties held by her during her lifetime were held by her as limited owner or absolute owner as per Section 14(1) and 14(2) falls for consideration in the said second appeal. The subject matter of two proceedings, therefore, appears to be different.

5. The learned trial court has also correctly observed that the proceedings under the Bombay Regulation Act are of summary nature

and will not affect in any manner the adjudication of civil rights between the parties in a civil suit.

6. In that view of the matter, this Court finds no jurisdictional error warranting interference in the order impugned. Writ Petition is therefore dismissed.

[ROHIT W. JOSHI]
JUDGE

sga/