

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3941 OF 2025

The Maharashtra Executor and Trustee Company Private Limited	...Petitioner
vs.	
The District Collector, Thane	...Respondent

Mr. Chandrakant Joshi a/w. Ms. Tanvi Nimbalkar, for the Petitioner.
Mr. P.V. Nelson Rajan, AGP for the State.

CORAM : N. J. JAMADAR, J.
DATE : MARCH 26, 2025

P.C:

1. Heard the learned counsel for the parties.
2. The challenge in this petition is to an order dated 11th October, 2024 passed by the learned Judge directing the petitioner to implead the heirs of the deceased as party to the Probate proceeding.
3. The petitioner has instituted a petition for grant of Probate of the last Will and Testament of Atmaram Kadam dated 1st February, 2021 whereby the petitioner has been appointed as the Executor. The petition came to be filed impleading the District Collector as the sole respondent.
4. After the petition was heard, by the impugned order, the learned Judge directed the petitioner to implead the heirs of the deceased as the property in respect of which the Probate was

prayed for appeared to be ancestral property of the deceased, who was having brothers and sisters and the petitioner had not impleaded them.

5. The learned counsel for the petitioner invited attention of the Court to the Will, wherein the deceased had declared that the relatives, brothers and sisters of the deceased will have no claim over his property in the capacity of the legal heirs of the deceased, and the petitioner-Maharashtra Executor and Trustee Company Private Limited shall execute the said Will in accordance with the disposition therein.

6. From the perusal of clause 4 of the Will, on which reliance was placed by the learned counsel for the petitioner, it becomes evident that the deceased had a wife, Prabha Atmaram Kadam, brothers Eknath and Prakash, and five sisters. Thus, it cannot be asserted that the deceased had no heirs.

7. In this view of the matter, under the provisions of section 283(1)(c) of the Indian Succession Act, 1925, the District Judge is empowered to issue citation calling upon all the persons having interest in the estate of the deceased to come and see the proceeding before the grant of Probate or Letter of Administration. The aforesaid persons are referred to as the persons having a caveatable interest. The persons who are entitled to succeed to the

estate of the deceased in case of intestate succession will definitely have a caveatable interest as the Will disrupts the said line of succession.

8. The aforesaid being the position in law, the learned Judge committed no error in directing the petitioner to implead the legal heirs of the deceased as the party respondents to the application for Probate.

9. Thus, the impugned order does not warrant any interference.

10. The petition stands dismissed.

(N. J. JAMADAR, J.)