

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.14292 OF 2025**

Muthukumar M Konar and Anr. ... Petitioners
versus
Praju Subramaniyam Konar and Anr. ... Respondents

Mr. R.V.Sippy, for Petitioners.

CORAM: N.J.JAMADAR, J.

DATE : 9 DECEMBER 2025

ORAL ORDER:

1. Heard the learned Counsel for the Petitioners.
2. The challenge in this Petition is to an order dated 5 May 2025 passed by the learned Civil Judge, Thane, whereby the application preferred by the Petitioners, who are brother and sister of late Subramaniyam Sundari Konar, who has passed away on 6 March 2022, to intervene in the proceedings filed by the Respondents, came to be rejected.
3. Respondent Nos.1 and 2, who are the wife and son of late Subramaniyam Sundari Konar, have filed an application for grant of heirship certificate under Bombay Regulation Act, 1827. The Petitioners sought intervention in the said heirship application as the Respondents are seeking a declaration that they are entitled to specific share in the property described at Sr. Nos. 1 and 2 in the said application.

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4. By the impugned order, the learned Civil Judge has rejected the application observing, inter alia, that the Petitioners are not the Class I heirs, of the deceased.

5. Learned Counsel for the Petitioners submitted that the prayers in the heirship certificate are not restricted to the grant of heirship certificate only, but pertain to substantive rights in the properties, one of which has been acquired by the Petitioner No.2.

6. It would suffice to clarify that in an application for heirship certificate, the question of title to the property cannot be inquired into. The scope of the application for grant of heirship certificate is very limited and the court is not expected to delve into the title to the property.

7. A useful reference in this context can be made to a judgment of the Division Bench of this Court in the case of **Aloysius Manuel D'Souza & Ors Vs Mary Kamala william Manuel D'Souza**,¹ wherein the import of the heirship certificate was expounded as under:

“9. The grant of heirship certificate does not establish the right of such party in the property of the deceased by itself. In this view of the matter, the rights of the appellants, if any, in the property of the deceased are not taken away by grant of heirship certificate to the Respondent No.1. On the other hand, Clause 7 further makes it clear that such heirship certificate holder is accountable

1 2006(6) Bom CR 56.

to all persons having an interest in the property for the acts so done by him or her.”

8. In the case of **Group Grampanchayat Vs Sunanda Shamrao Bandishti & Ors²** wherein it was enunciated as under:

“8 In a proceedings for heirship certificate, the court is not required to determine title of the deceased to any property. It is required only to consider whether the persons claiming heirship certificate are the heirs of the deceased. If any person comes forward to claim nearer kinship than the applicants, the rival claims for the applicant and the person claiming nearer kinship and to be an heir would be considered by the Court. The court may decline to grant heirship certificate to any applicant and come to the conclusion that the applicant is not an heir of the deceased or that there are nearer kins who are entitled to the heirship certificate. The question of title to the property allegedly held by the deceased is alien to such enquiry. Whether the deceased had any title to the property is not and indeed cannot be decided by the Court in an application for an heirship certificate made under the Regulation.”

9. In the case of **Ganpati Vinayak Achwal³** another learned Single Judge of this Court held that an heirship certificate does not bestow the status of an heir upon a person. Grant of such a Certificate is only a formal recognition of his existing status as an heir. The grant of heirship certificate is solely for the

² 2011(5) Bom CR 162.

³ 2014 SCC OnLine Bom 1193.

convenience of the heir. Beyond that, it is of no significance. The scope of enquiry in the proceeding for grant of heirship certificate is limited to ascertain the claim of heirship of the applicant.

10. In the case of **Dasanglu Pul Vs Lupalum Kri**,⁴ the Supreme Court observed that legal heir certificate by itself cannot be construed as a document of title to the property. It is a mode to determine the heirship based on which the consequential actions would follow.

11. The aforesaid being the position in law, the rejection of the Application for intervention by the learned Civil Judge cannot be faulted at. Suffice to clarify that the learned Civil Judge would keep in view the aforesaid legal position while determining the Application for heirship certificate.

12. Petition disposed.

(N.J.JAMADAR, J.)

⁴ 2024(1) MhLJ 241.