



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

Writ Petition No. 3459 of 2025

[Mandatai wd/o Ashok Bhagat ..vs.. Aishwarya Wd/o Ajay Bhagat
(Maiden Name Aishwarya D/o Kailash Kale)]

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

Court's or Judge's orders

Mr. N. D. Sonare, Advocate for the petitioner

CORAM : ANIL L. PANSARE J.

DATED : 09-07-2025

Heard.

2. The challenge is to order dated 18-2-2025 passed below Exhibit 27 in MJC No. 606/2023 by 7th Joint Civil Judge Senior Division, Nagpur by which the application filed by petitioner – non-applicant for rejection of plaint has been rejected.

3. Having heard both sides and having gone through the material placed before me, it appears that the respondent moved an application before the Civil Court for grant of legal heir certificate under Section II of the Bombay Regulation Act VIII of 1827.

4. The petitioner filed application under Order VII Rule 11 of the Code of Civil Procedure, 1908 (for short 'the Code') saying that the application is barred by law because the respondent is seeking legal heir certificate to claim NPS amount of the deceased along with other service benefits. According to the petitioner, in such eventuality, the appropriate remedy is to file application for legal heir certificate under the provisions of the Indian Succession Act, 1925.

5. The trial Court rejected the application on the count that the respondent has filed miscellaneous application and not

the plaint and, therefore, the provisions under Order VII Rule 11 of the Code will not apply. Another reason and which to my mind is relevant is that the respondent has only prayed for legal heir certificate and has not sought any other declaration.

6. In this context, I have gone through the application filed by the respondent before the trial Court. It appears that the respondent has averred in the application the reason why is she seeking legal heir certificate. According to her, the Department in which, deceased husband of respondent was working, will process the pension case only upon legal heir certificate obtained by the respondent. She also required this certificate to claim insurance amount and other service benefits. Thus, the respondent has assigned reasons as to why legal heir certificate is required and accordingly, a simple prayer of declaring her as legal heir of deceased and to grant legal heir certificate is made.

7. The aforesaid facts will reveal that the application is made for seeking legal heir certificate and not to incorporate in it any movable or immovable property. The respondent is thus right in preferring application under the provisions of the Bombay Regulation Act VII of 1827. The trial Court has correctly dealt with the application filed by the petitioner. There is no substance in the petition. The petition is dismissed with no order as to costs.

(Anil L. Pansare, J.)