



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

71 CRA NO. 7 OF 2026

GULNAZ BEGUM MOHAMMAD ISAQE KHAN @ GULNAZ BEGUM
SHAIKH HAROON AND OTHERS

VERSUS

DR. AYESHA TANVIR SHAIKH HAROON AND OTHERS

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Advocate for the Petitioner : Mrs. Ansari Asfia Nuzhat

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CORAM : SHAILESH P BRAHME, J.

DATE : 16.02.2026

PER COURT :

Heard Mrs. Ansari for the appellants. None appears for the respondents despite service of final disposal notice upon them.

2. The applicant is aggrieved by the judgment and order dated 13.12.2023 passed by the trial court in Civil M.A.(RJE) No. 747/2020 and judgment and order dated 30.09.2025 passed in Regular Civil Appeal No. 47/2024. The lower Appellate Court completely non suited her by rejecting her claim for succession certificate.

3. Applicant no. 1's husband Shaikh Harun was working as an Assistant Professor. He died on 11.09.2020. He is survived by applicant no. 1 widow and sons applicant nos. 2 and 3. Respondent no. 5 was his divorced wife and respondent nos. 1 to 4 are the children born out of earlier marriage. The dissolution of marriage took place on 26.02.2002. Thereafter second marriage was contracted with applicant no. 1.

4. Applicants claimed succession certificate which was allowed by the Trial Court. The Trial Court directed to issue succession certificate not only in the name of the applicants but in the name of the respondents also.

5. Being aggrieved, Regular Civil Appeal No. 47/2024 was preferred by the applicants to the extent of inclusion of name of respondent no. 5 in the succession certificate. There was no grievance for the applicants for incorporating names of respondent nos. 1 to 4. Strangely, appeal was dismissed and the proceedings for succession certificate are quashed by the Appellate Court vide judgment dated 30.09.2025. Liberty was also given to the parties to approach the civil court.

6. Learned counsel Mrs. Ansari submits that the appeal was restricted to the extent of incorporation of name of respondent no. 5. It is submitted that the Appellate Court committed grave error of jurisdiction in dismissing the appeal and simultaneously quashing the order passed by the Trial Court. The relief which has not sought for has also been granted, which amounts to perversity. It is further submitted that cogent evidence has been placed on record to make out a case of dissolution of marriage of the deceased with respondent no. 5.

7. The applicants have examined three witnesses. It is a matter of record that to prove factum of dissolution of marriage on 26.02.2002 between deceased Shaikh Harun and respondent no.5 Naziya Begum evidence was adduced. A.W. 3 Mohammad Hussain was the Kazi, who was witness to the Talaq proceeding. Talaqnama was also executed. There was dissolution of marriage and thereafter deceased contracted second marriage with the applicant no. 1.

8. It transpires from record that respondent no. 5 has given some admissions before the Trial Court. She was also in service and she was superannuated. Her cross-examination shows that name of deceased Shaikh Harun was not incorporated in the service record. Respondent no. 5 even did not object the marriage contracted by deceased with applicant no. 1. This material is indicative of the fact that there was dissolution of marriage and the respondent no. 5 being divorced wife is not entitled to claim any

right in the property left out by the deceased.

9. Deceased Shaikh Harun was working as an Assistant Professor and the succession certificate is required for receiving the terminal benefits. Pertinently, when applicants did not dispute the entitlement of respondent nos. 1 to 4 to be with them in the succession certificate, it would be incomprehensible as to why judgment and order passed by the trial court was quashed. It was nobody's claim that applicants are not entitled to the succession certificate. The relief, which was solicited before the Appellate Court has been granted, which is perversity.

10. The proceedings before the authorities are summary in nature that does not mean that the relief cannot be granted on the material produced before the Court. In the present case, I find that there is no serious dispute about the marital status of the applicant nos. 1 and respondent no. 5. The applicants are reasonable to raise objection for incorporation of respondent no. 5 in the succession certificate. The strong *prima facie* evidence for dissolution of marriage has been overlooked by the Appellate Court, which is error of jurisdiction.

11. It would be always open for the parties to resort to substantive proceedings by approaching the Civil Court. The material cannot be overlooked under the garb that it would be open for the parties to approach the civil court. The impugned judgment is totally unsustainable and needs interference. I, therefore, pass following order:

ORDER

(I) The impugned judgment and order dated 30.09.2025 passed in Regular Civil Appeal No. 47/2024 is quashed and set aside.

(II) Judgment and order dated 13.12.2023 passed in

Civil Misc.Appln (RJA) No. 747/2020 shall stand modified to the extent that name of respondent no. 5 Naziya Begum w/o Shaikh Harun shall stand deleted from the succession certificate and the succession certificate shall be issued in the name of applicants and respondent nos. 1 to 4 only.

(SHAILESH P. BRAHME, J.)

mkd/-