

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 17830 OF 2025

Vasant Ragho Alias Raghav Gharat ..Petitioner
Versus
Pravin Dattatraya Mhatre and Ors ...Respondents

Mr. Suhas Deokar, for the Petitioner.

CORAM: N. J. JAMADAR, J.
DATE : 27th JANUARY 2026

ORAL ORDER:

1. Heard the learned Counsel for the Petitioner.
2. The challenge in this Petition is to an order dated 7th November 2025 passed by the learned Civil Judge, Senior Division, Alibag, whereby an objection raised by the Petitioner in an Application for grant of Heirship Certificate in Civil MA No. 84 of 2024, came to be rejected.
3. Respondent Nos. 1 to 5 have filed the Application for grant of Heirship Certificate under the Bombay Regulation VIII of 1827. The Respondents claimed to be the legal heirs of late Sumati Dattatraya Mhatre. The Petitioner contended that the property which is referred to in the Application for grant of Heirship Certificate exclusively belongs to the Petitioner. Sumati had no concern with the said property.

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4. Mr. Deokar, the learned Counsel for the Petitioner, submitted that Respondent Nos. 1 to 5 are not the legal heirs of late Sumati. In the event of grant of Heirship Certificate, the proprietary rights of the Petitioner over the property referred to in the Application would be jeopardized and, thus, to that extent, the Petitioner be permitted to raise objections to the grant of Heirship Certificate.

5. Evidently, the Petitioner does not claim to be a legal heir of late Sumati. The Petitioner is agitating his proprietary title to the property which is referred to in the Application for the grant of Heirship Certificate.

6. The Petitioner is essentially raising a title dispute to the property. The grant of Heirship Certificate does not confer any right or title over the property on the persons to whom the Heirship Certificate is granted.

7. A useful reference, in this context, can be made to the Division Bench judgment of this Court in the case of **Aloysius Manuel D'Souza and Ors Vs Mary Kamala William Manuel D'Souza and Ors**,¹ wherein the Division Bench has enunciated that the grant of Heirship Certificate does not, by itself, establish the rights of such party in the property of the deceased.

8. The relevant observations of the Division Bench read as under:

¹ 2006 SCC OnLine Bom 821.

“5. The first part of clause 7 provides that an heir holding the proper certificate, may do all acts and grant all deeds competent to a legal heir and obtain judgment in any Court in that capacity. The second part of clause 7 clarifies that the heirship certificate confers no right to the property. It only indicates the person who is in the legal management of the property of the deceased. It further provides that grant of such certificate does not finally determine nor injure the rights of any person and the certificate may be annulled by the Zila Court upon proof that another person has a preferable right. The third part of clause 7 provides, inter alia, that a heir holding a certificate shall be accountable for his acts in that capacity to all persons having an interest in the property, in the same manner as if no certificate had been granted.

6. Clause 8 provides that refusal of a certificate by the Judge shall not finally determine the rights of the person whose application is refused, but shall still be competent to him to institute a suit for the purpose of establishing his claim. Conversely, therefore, it can be said that if the certificate is granted, then it does not finally determine the rights of the person in whose favour the certificate has been granted and does not take away the rights of other person to establish his claim in the competent Court nor does, as provided in the second part of clause 7, the certificate confer any right to the property.

7. The appellants seek to submit that Mary Kamala never married the said deceased and she is not his widow and, therefore, not entitled to the estate of the deceased.

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

9. In view of the aforesaid legal position, the learned Civil Judge was justified in rejecting the objections sought to be raised on behalf of the Petitioner to the grant of Heirship Certificate.

10. Keeping open the remedies which the Petitioner may avail to assert his right, title or interest in the subject property, the Petition stands disposed.

[N. J. JAMADAR, J.]