

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION

MISC. PETITION NO. 410 OF 2026

Vishnu Bhau Phapale alias
Vishnu B. Phapale alias
V.B. Phapale

.. Deceased

Khandu Vishnu Phapale

.. Petitioner

-
- Ms. Seema Hunnurkar i/by Mr. Mohan Gawade, Advocates for Petitioner
 - Mr. Rudresh Jagdale i/by Mr. Rohit Mangsule, Advocates for Respondent

.....
CORAM : MILIND N. JADHAV, J.

DATE : MAY 8, 2026

P. C.:

1. Heard Ms. Hunnurkar, learned Advocate for Petitioner and Mr. Jagdale, learned Advocate for Respondent.

2. Deceased has three sons. The wife had predeceased him. There names are Khandu, Bhausahab and Hari. Khandu has filed the Application for issuance of grant which is Legal Heirship Certificate in respect of declaration of legal heirs under Section 2 of the Bombay Regulation VIII of 1827. Purpose of seeking grant is stated in the Petition with regard to particular immovable property. However proclamation is issued and on receipt of proclamation, Mr. Jagdale learned Advocate appears for the other two legal heirs i.e. Hari and Bhausahab. Bhausahab has given affidavit in favour of Hari. Khandu

is Petitioner on one side and Hari, the other son on the other side are contesting entitlement to the subject immovable property on the basis of certain writings which are executed in the past. Be that as it may, insofar as the present Petition is concerned, it is with regard to grant of Legal Heirship Certificate and Khandu has prayed for the legal Heirship certified to be granted in the names of all three legal heirs of deceased. Therefore there can be no impediment in allowing the Petition.

3. However Mr. Jagdale would submit that the property which is the subject matter of Petition is standing in the name of Hari sine 2005 and thereafter certain writings are executed between the parties which are in dispute. Khandu is disputing the entire position. In such a scenario, there can be no impediment in allowing the grant, but it is clarified that issuance of grant in the Petition filed by Khandu *ipso facto* does not mean that the concerned immovable property for the purpose for which it is filed shall be transferred in the name of the Petitioner on the basis of the grant. To that extent parties are relegated to the Civil Court and whichever party desires to contest and prosecute their substantive right for entitlement to the immovable property are entitled to do so strictly in accordance with law. Issuance of grant is not determination of title in favour of any of the legal heirs to the property

4. Grant be issued subject to all other compliances within a period of two weeks from today. No further proclamation is required to be issued.

5. Petition is allowed and disposed.

Amberkar

[MILIND N. JADHAV, J.]

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signed by
RAVINDRA
MOHAN
AMBERKAR
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