



Civil Miscellaneous Application No. 151/2022

(C.N.R. - MHJG19 - 000799 - 2022)

(Sarika Gaur and others V/s No one)

Order passed below Exh. No. 1

This application has been filed by applicants seeking issuance of heir-ship certificate under the Bombay Regulation, 1827.

2. Applicants state in their application that deceased Prashant Pravinsing Gaur was the husband of the applicant No. 1 and the father of applicants No. 2 & 3. Prashant Pravinsing Gaur was died on 15/09/2022 leaving behind applicants as legal-heirs. Nobody is the other heir to the deceased Prashant Pravinsing Gaur except applicants. On this basis, they prayed for issuance of heir-ship certificate to administrate the property stands in the name of deceased.

3. Public notice has been duly published in daily newspaper "Lokshahi" dated 09/11/2022 inviting objections, if any, from interested people to grant heir-ship certificate in the name of applicants. Proclamation has been duly published in the locality, where the deceased was residing before his death. Nobody appeared to raise the objection to this application.

4. Applicants have filed verified copies of Aadar Cards of applicants, the verified copy of death certificate of Prashant Pravinsing Gaur at Exh. No. 13, the verified copy of death certificate of mother of deceased Prashant Pravinsing Gaur namely Shanta Pravinsing Gaur at Exh. No. 14, the original copy of Form No. 8 of Grampanchayat Property No. 56 of village Undani Digar, Tal. Parola, Dist. Jalgaon at Exh. No. 15 and local inspection report of Gramsevak of village Undani Digar, Tal. Parola, Dist. Jalgaon at Exh. No. 19. The fact that Prashant Pravinsing Gaur was died on 15/09/2022 as mentioned in the application, is substantiated. The applicant No. 1 has filed her affidavit of evidence at Exh. No. 12 on behalf of all the applicants. She has reiterated the fact that after death of Prashant Pravinsing Gaur, she and applicants No. 2 & 3 are the only heirs. Her evidence has been remained unchallenged. Also, there is no objection by anyone to challenge heir-ship of applicants. Therefore, applicants are entitled for heir-ship certificate.

5. The object of the Bombay Regulation, 1927 is to provide for the formal recognition of heirs, executors and administrators and for the appointment of administrators and managers of property by the Courts. The Hon'ble Bombay High Court in the case of **In Re : Ganpati Vinayak Achwal (MANU/MH/1485/2014)** held as follows :-

“The position of law that emerges from the above provisions is that, an heir-ship 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. An heir or executor or legal administrator, by his such status, can

assume management of the property of the deceased even without a formal recognition by the Court. A person may obtain heir-ship certificate in any of the three situations i.e. (i) if he so desires (ii) where his right as an heir is disputed, and (iii) in order to give confidence to the persons in possession of or indebted to the estate and to deal with them. Thus grant of heir-ship certificate is solely, for the convenience of the heir. Beyond that, it is of no significance. The rules also indicate that, it is mandatory for the Court to issue an heir-ship certificate, if after publication of citation, no objector comes forward within one month from the date of publication. In that case, the Court shall forthwith receive such proof as may be offered of the right of the person making the claim, and if satisfied, shall grant a certificate in the prescribed form declaring him the recognized heir of the deceased. The scope of such enquiry is limited to ascertain the claim of heir-ship of the applicant. The petitioner's claim and the impugned order are required to be appreciated against the above legal position.”

6. Applicants, in their application, have stated that deceased Prashant Pravinsing Gaur was having Grampanchayat Property No. 56 at village Undani Digar, Tal. Parola, Dist. Jalgaon. For recording their names to the above property, applicants are in need of heir-ship certificate. The material on record shows that applicants are only the heirs of deceased. No one has objected their claim. Those facts are sufficient to grant heir-ship certificate in favour of the applicants by formally recognizing them as heirs of

deceased Prashant Pravinsing Gaur. Hence, following order is passed :-

Order

1. The application is allowed.
2. Applicants are recognized formally as heirs of deceased Prashant Pravinsing Gaur in respect of Grampanchayat Property No. 56 at village Undani Digar, Tal. Parola, Dist. Jalgaon only.
3. Applicants do furnish a bond that as and when, they are called upon, they would exhibit in the Court a full and true inventory of all the property and credits in the possession under this certificate, and also render to the Court a true account of the said property and credits, showing the assets, which have come to their hands and the manner, in which, they have been applied or disposed of.
4. Certificate be issued in the names of the applicants on furnishing proper Court fees as per rule.
5. Concern Office, where this certificate is to be used, shall take note that the said certificate is only issued for the administration of above mentioned property and it can not be used for any kind of monitory benefits.

(K.K. Mane)

Date : 03/01/2022.

Civil Judge, Junior Division, Parola,
Tal. Parola, Dist. Jalgaon.