

ORDER PASSED BELOW EXH.1 IN CIVIL M.A.NO. 89/2022..
Navnath Nivruttin Pathade + 11 V/s. NIL.

The present application is filed by applicants under Section 2 of Bombay Regulation Act, 1827.

2. Applicant No.1 to 12 are legal heirs of deceased Nivrutti Govind Pathade who had relationship with deceased as mentioned in the application. Nivrutti Govind Pathade died on 28/12/1994 at Village Midsangvi, Tq. Pathardi Dist. Ahmadnagar. Except the applicants there are no any legal heirs of deceased Nivrutti Govind Pathade. Hence, the applicants have filed the present application to proclaim themselves as legal heirs of the deceased Nivrutti Govind Pathade.

3. In support of the application, applicant No.1 has filed his affidavit in lieu of examination of chief at Exh.18 and stated the contention which is already mentioned in the application.

4. The applicants filed documents along with list Exh.3 i.e. Death Certificate of deceased Nivrutti Govind Pathade, other documents along with list Exh.3. All the documents shows that, except applicants no any other legal heirs to deceased Nivrutti Govind Pathade.

5. Following points arise for determination and I have recorded my findings against them with reasons.

<u>Points</u>	<u>Findings</u>
1. Are applicant No. 1 to 12 entitled to get heir- ship certificate ?	..Yes.
2. What order ?	..As per final order.

R E A S O N S..

As to Point No.1 & 2..

6. The applicants published public notice in daily local news paper “Punyanagari” dated 22/10/2022 and produced paper cutting in the case, but till today, no body came in the Court to claim on the heir-ship certificate or neither objected the claim of applicants. The applicants filed affidavit which is remain unchallenged. In the affidavit applicant No.1 sworn that except applicants nobody is legal heirs to deceased Nivrutti Govind Pathade.

7. In response to the paper publication in daily “ Punyanagari” Exh.13 none amount public at large has objected the present claim of applicants. In this context, it is just and proper to rely on the case law reported in Group Gram Panchayat Sasavane Vrs. Sunanda Shamrao Bandishti and others reported in 2011[2] Maharashtra Law Journal, 424 wherein it is observed that:-

“In a proceeding for heir-ship certificate, the Court is not required to determine the title of the deceased to any property. It is required only to consider whether the persons claiming heir-ship certificate are the heirs of the deceased. If any person comes forward to claim nearer kinship than the applicants, the rival claims for the applicant and the person claiming nearer kinship and to be an heir would be considered by the Court. The Court may decline to grant heir-ship certificate to any applicant and come to the conclusion that the applicant is not an heir of the deceased or that there are nearer kins who are entitled to the heir-ship certificate. The question of title to the property allegedly held by the deceased is alien to such inquiry. Whether the deceased had any title to the property is not and indeed cannot be decided by the Court in an application for heir-ship certificate made under the regulation.”

8. The documents on record are sufficient to issue heir-ship

certificate in the name of applicants and as such there is nothing on record which create any impediment to disbelieve the claim applicants. Therefore, I record finding of Point No.1 in the affirmative and after hearing argument of Shri C.N.Satpute, Learned Advocate for the applicants, in view of the above ratio laid down by the Hon'ble High Court and in the light of the averments of the applicants, I proceed to pass the following order.

ORDER..

1. The application is allowed.
2. The applicants are hereby recognized as legal heirs of deceased Nivrutti Govind Pathade.
3. Issue heir-ship certificate in the name of applicants in prescribed form, as per rules.

Date : 15/12/2022.

(A.S. Birajdar)
Civil Judge (J.D.),
Pathardi.