

ORDER PASSED BELOW EXH. 15 IN PROBATE APPLICATION

NO. 28/2022

1) This application is filed by third party Ajinkya Tanaji Dunde. It is contended by him that property mentioned in the Will Deed is belonging to his paternal grandmother and he is having share in the said property. It is prayed by the third party that he be impleaded in this petition as a non applicant.

2) Say is filed on this application on behalf of applicant. It is contended in the say that the said application is not maintainable for want of specific explanation and proper say alongwith the application. It is further contended in the say that property mentioned in the application is her separate property. It is prayed by the applicant in his say that this application be rejected.

3) On 22/06/2026 third party Ajinkya Tanaji Dunde and his learned advocate were absent when called repeatedly for argument on this application. Hence, it is ordered on this application that there is no argument on behalf third party on this application. I heard leared advocate Shri A. V. Kodule on behalf of applicant. I gone through the record.

4) After hearing and going through the record it seems that applicant Rohit Tanaji Dunde has filed this probate application for getting probate certificate in respect of the Will of his deceased paternal grandmother Smt. Draupada

Mahadeo Dunde. I gone through the Will of Smt. Draupada Mahadeo Dunde which is filed along with list at Exh. 3/1. It appears that said Will is executed in favor of applicant Rohit Tanaji Dunde. It is contended by the testator in the said Will dated 17/10/2017 that she is having two sons namely Shivaji and Tanaji and daughter namely Yashoda Ganpati Kadam. Her son Shivaji is alive and Tanaji is died. Rohit Tanaji Dunde is her grandson.

5) It is the contention of third party/objector Ajinkya Tanaji Dunde that he is grandson of testator Draupada Mahadeo Dunde. In my opinion if there was no Will, the third party Ajinkya Tanaji Dunde being a son of predeceased son of the testator would have inherited the property of the testator to the extent of his share. In my opinion third party Ajinkya Tanaji Dunde being a son of predeceased son of the testator is entitled to citation of this probate application and he is the person who ought to have been cited as contemplated as by illustration II of Section 263 of Indian Succession Act. However, he neither cited nor notice is sent to him. Therefore, for above mentioned reasons in my opinion third party Ajinkya Tanaji Dunde is necessary party to this probate application. Therefore, for above mentioned reasons in my opinion in the interest of justice this application is liable to be allowed. Hence, this court to proceed to pass following order.

ORDER

- 1) This application is allowed as under.
- 2) Applicant Shri. Rohit Tanaji Dunde is hereby directed to implead the third party Ajinkya Tanaji Dunde as a non applicant and accordingly carry out the amendment in the title clause of the application and thereafter file the amended copy of the application.
- 3) Dictated and pronounced in the open Court.

Date: 07/07/2026

(P. L. Ghule)
Jt. Civil Judge (Sr. Dn.),
Karad.