

Presented on : 01-10-2022
Registered on : 01-10-2022
Decided on : 10-01-2023
Duration on : 00 02 09
Y. M D.

IN THE COURT OF 5th JT. CIVIL JUDGE JR. DN. AT AKOLA
(Before Smt. M.V. Bharade)

M.J.C. No. 1893/2022

Ex. No.

- 1) **Rabiya Bi Taslim Khan (wife)**
Aged about 72 yrs. Occ Household.
- 2) **Usman Khan Taslim Khan,**
Aged about 44 yrs. Occ labour
R/o Haiderpura Akola.
- 3) **Rahim Khan Taslim Khan,**
Aged about 36 yrs. Occ Labour
- 4) **Mehboob Khan Taslim Khan,**
Aged about 32 yrs occ Household
- 5) **Afsana Bi Mohammad Jamil Shaikh,**
Aged about 47 yrs. Occ Household
3 to 5 r/o Bhiwandi
- 6) **Farjana Bi Abdul Rafiq,**
Aged 41 yrs. Occ Household
r/o Iftekhar plot, Akot
Dist. Akola.

APPLICANTS

- VERSUS -

N I L

.. NON-APPLICANT

CLAIM : **APPLICATION FOR LEGAL HEIRSHIP**
CERTIFICATE UNDER SECTION 2 OF BOMBAY
REGULATION ACT, 1827.

Adv. L.B.Dehliwale, Ld. Adv. for Applicants
Nil for Non-applicant.

J U D G M E N T

(Delivered on 10th January, 2023)

Perused application and relevant documents produced on record.

2] Applicant no. 1 is the widow, applicant no. 2 to 6 are the children of deceased **Taslim Khan Raheman Khan**, who died on 24-01-2021 at Akola. Mother of deceased is died since long back. Therefore, the applicants are the only legal heirs of the deceased **Taslim Khan Raheman Khan** and except the present applicants there are no any other legal heirs of the deceased **Taslim Khan Raheman Khan**. Being the only legal heirs surviving deceased **Taslim Khan Raheman Khan** applicants are needed legal heirship certificate.

3] It is further submitted that, deceased **Taslim Khan Raheman Khan** was the permanent resident of Akola and applicants are the only legal heirs surviving them. It is further submitted that, besides the application at hand no other application for issuance of legal heirship certificate is filed in any other court. That there is no legal impediment to issue the certificate.

4] Order to issue citation notice and paper notice was passed. Citation notice dtd. 21-10-2022 is published on 17-11-2022. Paper notice is published on 22-10-2022 in daily news paper 'Janmadhyam'.

5] The applicants relied upon death certificate of deceased **Taslim Khan Raheman Khan** and verified photo copy of Adhar Cards

of applicants. Learned Advocate for the applicants prayed for allowing the application.

6] Considering the submissions and legal provision, following points arose for my determination, which are reproduced along with findings followed by reasons :

Sr. No.	Points	Findings
1	Whether the applicants prove that, they are legal heirs of deceased Taslim Khan Raheman Khan ?	In the Affirmative
2	Whether the applicants are entitled for relief as prayed ?	In the Affirmative
3	What order ?	As per final order

REASONS

AS TO POINT NO. 1:

7] To prove the claim, on behalf of the applicants, applicant no.2 has filed her affidavit of evidence at Exh. 10 and reiterated therein all the contents of application. They also relied on documents viz; verified photo copy of death certificate of deceased **Taslim Khan Raheman Khan** at Exh.10, verified photo copies of Aadhar Card of applicants at Exh. 11 to Exh. 16 and paper notice published in 'Janmadhyam' at Exh. 08.

8] Perusal of pleadings and evidence oral and documentary depicts relationship as claimed of deceased **Taslim Khan Raheman Khan** with the parties to the litigation and that he died on 24-01-2021 at

Akola on record further depicts the deceased was permanent resident of Akola.

9] As application does not disclose movable and immovable properties of deceased **Taslim Khan Raheman Khan** but present application is filed under section 2 of Bombay Regulation Act for issuance of legal heirship certificate and it is well settled that the scope of it is formal recognition of legal heirs of deceased and beyond that it is of no significance. It does not confer or take away any right, title or interest in immovable and movable property. So non-disclosure of property if any belonging to the deceased **Taslim Khan Raheman Khan** is not fatal. Moreover, besides the parties to the present application no other legal heir surviving deceased **Taslim Khan Raheman Khan** was in existence and to avoid any technicalities legal heirship certificate may be issued in the name of all the parties so shall no prejudice will cause to them. Even otherwise no material objection in this regard is raised.

10] Further as citation and notice in local newspaper are published and till date no objection is received. As per the schedule of Hindu Succession Act, father does not belongs to Class-I heir, he belongs to Class-II heir. In circumstances, and considering the submissions of both the sides, as all the relevant documents are produced on record and procedural aspects are complied with there is no reason to justify the rejection of application. In short applicants duly proved that, applicants are the only legal heirs of deceased **Taslim Khan Raheman Khan**. Accordingly, I answer Point No. 1 in Affirmative.

AS TO POINT NOS. 2 & 3 :

11] For official purpose heirship certificate is asked and it is not declaration of right in favour of claimants. So there is no legal hurdle to allow the application and issue certificate accordingly. Accordingly, I answer Point No. 2 in Affirmative and proceed to pass following order :-

ORDER

- 1] Application is allowed.
- 2] Issue legal heirship certificate in the name of applicant no. 1) Rabiya Bi Taslim Khan (wife), applicant no.2) Usman Khan Taslim Khan, applicant no. 3) Rahim Khan Taslim Khan, applicant no. 4) Mehboob Khan Taslim Khan, applicant no. 5) Afsana Bi Mohammad Jamil Shaikh, applicant no. 6) Farjana Bi Abdul Rafiq are being legal heirs of deceased **Taslim Khan Raheman Khan** on payment of requisite court fee as per law.

Date : 10/01/2023.

(Smt. Mrunalini V. Bharade)
5th Jt. Civil Judge (Jr. Div.),
Akola.