

Succession M. A. No. 98 of 2021

MHAH080022292021



IN THE COURT OF 2ND JT. CIVIL JUDGE JUNIOR DIVISION,
AT SANGAMNER, DIST. AHMEDNAGAR

Succession M. A. No. 98 of 2021

Jyoti Suryabhan Bidve

...Applicant

VERSUS

Sima Kailas Jadhav and Other

... Respondents

ORDER BELOW EXH. 01

This is an Application under Bombay Regulation VIII of 1827 for issuance of Heirship Certificate.

02. As per Section 265 of the Indian Succession Act read with para 305 of the Civil Manual, this Court is a District Delegate.

03. Procedure has been laid down in para 304 to 319 of Chapter XIV of the Civil Manual to conduct the proceedings under the Indian Succession Act 1925 and Bombay Regulation VIII of 1827. In such scenario, it would be apposite to refer the provision of para 305 of the Civil Manual. The said provision is reproduced herein under for the sake of ready reference.

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305. (i) *Under Section 265 of the Indian Succession Act, 1925, the High Court has appointed all Civil Judges to act for the District Judge as delegates to grant probate and letters of administration in non-contentious cases arising within the local limits of their respective jurisdiction,*

305. (ii) *In exercise of the powers conferred by Section 28-A(1) of the Bombay Civil Court Act (XIV of 1869), the High Court has invested all Civil Judges (Senior Division), with all the powers of a District Judge to take cognizance of any contested proceeding under Indian Succession Act, 1925, arising within the local limits of their respective jurisdiction that may be transferred to them by their respective District Judges.*

04. In present application third parties Ashvini Ganesh Bidve and Chaitanya Ganesh Bidve are appeared through their Ld. Advocate Mr. A. B. Sahane and denied the contents of present application by filing objection at Exh. 21. Applicant filed her say, Exh. 27, to the objection. Now, applicant and third parties, all claiming themselves heirs of deceased Suryabhan and Sunita. They are denying claim of each other. Now, the main application is become contentious. Therefore, in view of para 305 (ii) of the Civil Manual, it is necessary to issue request letter

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to Hon'ble the Principal District Judge to withdraw the application from the file of this Court and to transfer the same to the Court of Hon'ble Civil Judge Senior Division, Sangamner.

05. In this regard, by Circular (जा.क. तां.वि.७९१४/२०१४, दि. ०९/१२/२०१४) Hon'ble District Court has directed that, when the Succession applications will become contentious then concerned Court of Civil Judge Junior Division shall, instead of sending request letter to the Hon'ble District Court, be sent proceeding of the applications to the Court of Hon'ble Civil Judge Senior Division within which jurisdiction the Court of Civil Junior Division is situated and shall forward report about it to the Hon'ble District Court.

06. As the present application is become contentious, in view of the afore said factual and legal position coupled with circular of the Hon'ble District Court, this Court will have to send the proceeding of this application to the Court of Hon'ble Civil Judge Senior Division, Sangamner. Hence, the order.

ORDER

1. The proceeding of Succession M. A. No. 98/2021 be sent to the Court of Hon'ble Civil Judge Senior Division, Sangamner.
2. Applicant, respondents and third parties,

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Ashvini Ganesh Bidve and Chaitanya Ganesh Bidve are directed to remain present before the Court of Hon'ble Civil Judge Senior Division, Sangamner on 07.08.2023.

Date : 21.07.2023
Place : Sangamner

(P. D. Deore)
2nd Jt. Civil Judge Junior Division,
Sangamner