

MHAU060000622004



ORDER BELOW APPLICATION VIDE EXH. 123
IN R.D. NO. 10/2004.

(Vithabai Shankar Bhojane Vs. Goba Lalchand Pawar and others)

1. The present application is filed by Babasaheb Shankar Bhojane for adding him as respondent in present matter as the legal heir of deceased decree holder Vithabai Shankar Bhojane.

2. It is contended by the applicant that, the decree holder Vithabai Bhojane expired on 19.04.2017 and she has three sons. The applicant, Sahebrao Bhojane and Ganghadhar Bhojane are her sons and one son Pandharinath has expired. The applicant being legal heir of the decree holder has right to contest present proceeding. Shankar has submitted an application and got himself added as party in present proceeding. He has not sought to add other legal heirs of the decree holder to be added as party in present proceeding. Hence, present applicant being the legal heir of the decree holder is entitled to be added as opposite party in present matter. Hence, he prayed for allowing present application.

3. The decree holder filed his say at Exh. 130 and submitted that, the relation between the applicant is not disputed. He further submitted that, the present applicant can

not become legal heir of deceased decree holder as she had executed registered Will in favour of Sahebrao Bhojane and as per said Will he has pursued present matter and his name is entered in revenue records. The applicant is not concerned with the suit property and he can claim his share by filling separate proceeding. Therefore, he can not be added as respondent in present proceeding.

4. Heard both parties. Perused record. In the present matter the present decree holder i.e. Sahebrao Shankarrao Bhojane had filed application below Exh. 116-B for adding him decree holder in present proceeding as legal heir of deceased Vithabai Bhojane. Said application was allowed on 18.01.2020 and he was added as decree holder. Accordingly, amendment was carried out. Said application was allowed on the ground that, deceased Vithabai had executed a registered Will in favour of Sahebrao regarding the suit property. It is pertinent to note that, said order is not challenged before any Higher Court and so said order is final. Since said order was passed on basis of registered Will in favour of Sahebrao, there is no merits in the contention of the applicant, as admittedly he has not challenged said Will before any Competent Court. Therefore, he can not be added as party in present proceeding. Hence, following order.

ORDER

Application Exh. 123 is hereby rejected.

Date: 01/01/2022.

(Pankaj K.Ahir)
Civil Judge, J.D.,
Kannad.

CERTIFICATE

I affirm that the contents of this P.D.F. file order are same, word to word as per the original Order.

Name of the Stenographer : Y. S. Mali
Court : C.J.J.D. & JMFC, Kannad.
Date : 01/01/2022
Order signed by the
presiding officer on : 01/01/2022
Order uploaded on : 03/01/2022

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