

Spl.C.S. No. 25/2018
Laxmibai Vs. State & others
CNR No.MHJN020003652018

Order below exh.89

Applicant has filed present application under Order 22, Rule 2 and 3 of the Code of Civil Procedure to appoint applicant as a legal representative of deceased plaintiff for continuation of the suit.

2. Applicant submits that the original plaintiff Laxmibai @ Sarubai Baburao Wakde grandmother of the applicant died on 19.09.2023 at Jafrabad leaving behind no will. Applicant further submits that the suit is originally filed for Nagar Panchayat House No.3438, admeasuring 800 sq.ft. for the land Gat No.62 of village Jafrabad which was purchased by her mother-in-law of original plaintiff namely Jankabai Kaluba Wakde by agreement for sale dated 27.03.1963. Till then she was in continuous possession of the suit land which is particularly described in plaint. Applicant further submits that during the lifetime of Laxmibai @ Sarubai Baburao Wakde, she executed one "Watni Patrak" dated 06.04.2023 in favour of the applicant and effected partition of the suit land without any remuneration in her favour and handed over possession of the suit land on the same day to the applicant. The necessary mutation in this regard is already sanctioned in the name of the applicant in 7/12 extract vide mutation entry no.12605 sanctioned on 10.05.2023.

3. Applicant further submits that the original plaintiff Laxmibai @ Sarubai Baburao Wakde was the exclusive owner of the suit property being her stridhan property and it was not joint Hindu family property. Though, she had originally three sons and one married daughter as a legal heirs to succeed her property, but since she partitioned her suit property during her life time in favour of the applicant and therefore applicant is become legal representative for her for the purpose of this suit and to continue with the necessary proceedings. Hence, present application.

4. Respondents strongly objected the application on ground that the application is not tenable in the eyes of law and same may be rejected.

5. Perused application and say.

6. Heard.

7. Admittedly, the original plaintiff Laxmibai @ Sarubai Baburao Wakde is the grandmother of the applicant who expired on 19.09.2023 at Jafrabad leaving behind no "will", but she executed "Watni Patrak" dated 06.04.2023 in favour of the applicant and on the basis of said "Watni Patrak" the necessary mutation took place in the 7/12 extract vide mutation entry sanctioned by the competent authority i.e. Circle Inspector (Revenue) of the said village. In short, the deceased original plaintiff Laxmibai @ Sarubai Baburao Wakde was the exclusive owner of the suit property being her stridhan property and it was not joint Hindu family property. Though, she had three sons

and one married daughter as legal heirs to succeed her, but since she partitioned her suit property during her life time in favour of the applicant. Therefore, applicant become legal representative of the deceased for the purpose of this suit. The respondents have not denied all these facts. Accordingly, order follows.

ORDER

1. The application is allowed.
2. The applicant be allowed to substitute his name after the name of present plaintiff to continue with the suit.

Date: 05.07.2024.

(Shri. D. S. Thorat)
Civil Judge (S.D.),
Jalna.

CERTIFICATE

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

Name of Stenographer : V. A. Dhone (Grade-III).
Name of Court : Civil Court,(S.D.) Jalna.
Date of PDF : 06.07.2024.

sd/-
Signature of stenographer