

M.C.A. No.13/2026
Nasimabegum & ors. V/s.
Akhtarbegum & ors.
CNR No. MHLA010005762026

ORDER BELOW EXH.15.

This an application moved by the appellants seeking interim stay to the effect and operation of heirship certificate issued vide order dated 14.11.2024 in M.A. No. 1683/2024.

2. It is contention of the appellants that respondents applied for heirship certificate in M.A. No. 1683/2024 alleging that they are the heirs of Kundanbee. It is contention of the appellants that, in fact, Kundanbee died issueless and false heirship certificate was obtained. Accordingly, appellants have filed application for revocation of heirship certificate granted in M.A. No. 1683/2024. In that revocation application i.e. M.A. No. 255/2025, the appellants filed application (Exh.5) to stay the effect and operation of order of M.A. No. 1683/2024 dated 14.11.2024. That application came to be rejected by learned trial court. Hence, appellants preferred present MCA against that order. It is contention of the appellants that on the basis of heirship certificate the respondents are in hurry to record their names in survey No.44/1 situated at Latur and hence this application for interim stay is moved.

3. In short, it is contention of the appellants that survey No. 44/1 was owned by Wahaboddin who was the brother of appellants'

father. Wife of Wahaboddin by name Kundanbee died issueless and after her death, the property came to the appellants. Since from last 70 years, they are in possession over this property. It is contention of the appellants that respondents alleged that they are heirs of the daughter of Kundanbee and after 70 years they applied for heirship certificate on false allegation.

4. On the other hand, it is contention of the respondents that they are the heirs of the daughter of Kundanbee. It is contention of the respondents that learned trial court has rightly passed order recognizing respondents as the heirs of Kundanbee and issued heirship certificate on the basis of documents placed on record. It is an objection of the respondents that the appellants can not be held as sharers or residuary or distant kindred of Kundanbee and hence they have no right to seek revocation of heirship certificate.

5. Heard both the sides at length. Firstly, I have to mention that I am deciding this interim application and not the MCA finally. The respondents are claiming to be the heirs of Kundanbee, but in their heirship application they had specifically mentioned the purpose that they want heirship certificate for mutating their names in survey No. 44/1. It is sought to be argued that the heirship certificate is only for recognition of the heirs and it does not confirm any right or title in respect of any property. Though it is such submission of the respondents, they are intending to record their names in survey No.

44/1 on the basis of heirship certificate. They have applied after 70 years of the death of Kundanbee for such certificate. The 7/12 extract shows that appellants are in possession over this property since from last 70 years. In such situation it clearly appears that the real dispute between the parties is about the right and title over survey No. 44/1. Under the shield of heirship certificate the respondents are intending to record their names directly in revenue record of survey No. 44/1. It is not in dispute that respondents have also filed suit against present appellants for declaration of ownership and possession of the property survey No.44/1. The rights of the parties are going to be decided in true sense in that suit. At this juncture, I feel that if names of the respondents are recorded in survey No. 44/1 on the basis of heirship certificate, it would create complications. The rights of the parties are going to be decided in the suit filed by respondents. So, in fact, they need not make such hurry. So, I am inclined to grant interim stay.

6. Learned counsel of the respondents argued that if stay is granted, all rights of the respondents under heirship certificate will be affected. In fact, it appears that the whole purpose of obtaining heirship certificate was to record the names in survey No. 44/1. If the respondents feel that apart from this property survey No.44/1, they will be deprived to use the heirship certificate for any other purpose because of stay, I am going to restrict the order of stay only to the extent of property survey No. 44/1. Accordingly, I pass following

order.

Order

Interim stay is granted to the effect and operation of order passed in M.A. No. 1683/2024 by 2nd Civil Judge Senior Division, Latur dated 14/11/2024 to the extent of the property survey No. 44/1 situated at Latur, till disposal of this appeal.

Date : 16/05/2026.

Place : Latur

(Vidyadhar S. More)

Adhoc District Judge-1 Latur