

CIVIL M.A. NO. 21/2022

ORDER BELOW EXH. 50

This application is filed by the applicant seeking issuance of a legal heirship certificate under the Bombay Regulation Act, 1827. It is the case of the applicant that he, along with respondent No.1 to 5 and 6/1 to 6/3, are the legal heirs of deceased Laxmi Narayan Vadkar, who expired on 24/12/1999. The applicant submits that the present application is only for a formal declaration of legal heirs and no property rights are being adjudicated. According to him, the respondents have admitted the relationship in their say, and therefore the application deserves to be allowed.

02. Respondent No.1 has appeared and filed his say at Exh.43. He has admitted the relationship between the parties but has denied the correctness of the contents of the application. He has contended that during her lifetime, deceased Laxmibai executed a Will bequeathing her properties in his favour and therefore the applicant is not entitled for the relief claimed. It is further submitted that the applicant has suppressed material facts and has been filing proceedings before various forums which have been dismissed. The respondent has also pointed out that the applicant had earlier filed civil proceedings challenging the Will, which were dismissed, and delay-condonation applications for restoration of the said proceedings were also rejected. He has further submitted that the applicant had challenged the mutation entries before the revenue authorities but those proceedings

too were dismissed.

03. The applicant, through learned advocate, argued that the present proceeding is only for a limited purpose of declaring legal heirs and not for deciding the validity of any Will or title to the properties. It is submitted that the admissions made by respondents regarding relationship are sufficient for deciding the application, as issuance of a legal heirship certificate does not affect the property rights of the parties. It is further contended that objections raised by the respondent regarding the Will are not relevant for the present application.

04. The respondent, through learned advocate, argued that there is no clear or unconditional admission in favour of the applicant enabling the Court to pass an order on the basis of Order XII Rule 6 of the Code of Civil Procedure. It is contended that though relationship is admitted, the respondent has specifically denied the entitlement of the applicant and has relied on the Will executed by deceased Laxmibai. Therefore, the respondent contends that the application is liable to be rejected. It is also submitted that the applicant has not filed any documentary evidence to support his claim.

05. On perusal of the record and proceedings, it is seen that except admission of relationship, there is no unqualified admission regarding the claim made in the application. The respondent has raised serious objections

based on the alleged Will and earlier litigation between the parties. In the absence of evidence, the Court cannot grant the relief merely on the basis of partial admissions.

06. The applicant seeks relief on the basis of alleged admissions under Order XII Rule 6 of the Civil Procedure Code, which empowers the Court to pass judgment on admission only when the admission is clear, definite, unambiguous and unconditional.

07. In the present matter, the alleged admission relied upon by the applicant is not clear or unconditional. Respondent No.1 has categorically denied the applicant's entitlement, asserted exclusive rights through a Will, and pointed out earlier dismissed proceedings. These denials and assertions create substantial disputed questions of fact.

08. Issuance of a legal heirship certificate requires that the relationship be prima facie undisputed. When respondents deny the applicant's claim and assert competing rights, no declaration can be granted on the basis of partial or qualified references. Since the essential requirement for invoking Order XII Rule 6 is not satisfied, the relief sought by the applicant cannot be granted.

09. In this matter, earlier an order below Exh.1 was passed directing the parties to lead evidence. However, despite the said order, the applicant has not led any evidence to substantiate his claim. No documentary evidence has been

produced by the applicant supporting the contention that all the persons named are legal heirs of the deceased. Mere pleadings without proof cannot be accepted.

10. Considering the objections raised by the respondent, the absence of clear admission, the failure of the applicant to lead evidence despite opportunity, and the fact that the application seeks a formal declaration based on facts which are disputed, I find that the applicant has not made out any case for grant of a legal heirship certificate. At this stage, the applicant has also not comply with the earlier direction to lead evidence. Therefore, the application cannot be allowed. In view of the above circumstances, the application stands rejected.

Place – Karjat
Date - 18/11/2025

(Smt. A. S. Wadkar)
Civil Judge, J.D., Karjat,
District - Raigad