


MHRT010000322026 	Received on :- 07.01.2026 Registered on :- 13.01.2026 Decided on :- 18.04.2026 Duration of :- Ys. Ms. Ds. 00 03 11
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IN THE COURT OF DISTRICT JUDGE-1 RATNAGIRI.
(Presided over by A. M. Ambalkar)

CIVIL APPEAL NO. 02/2026
Exh.No.14

Ajit Dattatray Patil,
Age 42 yrs., Occu.: Service,
R/o. 409, Shiwalkarwadi, Jakimirya,
Tal. & Dist. Ratnagiri.

VERSUS

- 1. Kalpana Dattatray Patil,**
Age 65 yrs., Occu.: Home Maker,
- 2. Amit Dattatray Patil,**
Age 45 yrs., Occu.: Service,
- 3. Amol Dattatray Patil,**
Age 48 yrs., Occu.: Service,
Respondent nos.1 to 3
R/o. 409, Shiwalkarwadi, Jakimirya,
Tal. & Dist. Ratnagiri.
- 4. Sneha Sandeep Mahale,**
formerly Gita Dattatray Patil,
Age 53 yrs., Occu.: Homemaker,

R/o.Ramraj, Tal. Alibaug, Dist. Raigad,

5. Nita Rupesh Naik

Formerly Nita Dattatray Patil,

Age 57 yrs., Occu.: Service,

R/o. B/201, Anirudha Bhumi Apartment,

New Viva College road,near D'mart,

Y. K. Nagar, Virar West,

Dist. Palghar – 401303.

Respondents

Appeal under Section 384 of the Indian Succession Act, 1925

Shri. A. A. Ghosale - Ld. Advocate for Appellants

Shri. N. J. Mayekar - Ld. Advocate for Respondent nos.4 & 5

Ex parte against Respondent nos.1 to 3

J U D G M E N T

(Delivered on this 18th April, 2026)

1. The appellant i.e. original applicant has preferred present appeal against the rejection order below Exh.1 in Civil Miscellaneous Application No.116/2025 for grant of legal heirship certificate under section 2 of the Bombay Regulation Act, VIII of 1827.

2. Brief facts of the Applicant's case are as under:-

The applicant filed an application for recording his name to the house property bearing no.68 situated at village Chinchoti, Tal. Alibaug, Dist. Raigad which was in the name of his

grand father Sitaram Nagu Patil to the grampanchayat. Then the village Development Officer issued letter and asked to bring development certificate, hence, the application is filed before the trial Court.

3. Sitaram Nagu Patil died and thereafter the name of grandmother of applicant namely Gangabai was recorded. The said Gangabai died on 09/09/2006. Thereafter name of Ramesh Sitaram Patil has been recorded to the grampanchayat record in respect of suit house. In fact Sitaram and Gangabai are having four sons namely Dattatray, a father of present applicant, Bhaskar, Rajanikant and Ramesh. The father of applicant died at village Jakimirya Ratnagiri, Tal. & Dist. Ratnagiri on 04/09/2001.

4. Sitaram and Gangabai even having four legal heirs, the Ramesh mischievously got entered his name only. The applicant came to know about it and applied for entering his name as legal heir of Dattatray in respect of the said house. The respondent no.4 and 5 are daughters of first wife of deceased Dattatray and the respondent no.1 is the wife of deceased Dattatray and applicant and respondent no.2 are sons of deceased Dattatray. As such, applicant and all the respondents being legal heirs of deceased Dattatray heirship certificate be granted in their favour.

5. The record of the trial Court shows that after receiving application publication was issued and objections were called. It further appeared that the applicant has produced death certificate

of Dattatray, letter issued by grampanchayat Chinchoti, copy of Aadhar card of applicant, citation notice. The paper publication also appeared on record. Record also shows that nobody raised any objection regarding the claim of applicant. It further appeared that the contentions of applicant also supported by his affidavit of evidence.

6. The trial Court appears to have rejected the application for the ground that the letter issued by grampanchayat shows that Dattatray contracted only one marriage and he has only two legal heirs i.e., Nita and Geeta i.e., respondent no.4 and 5. Therefore the trial Court observed that in the evidence, it is not mentioned as to when Dattatray married first time and with whom and who is second wife and whether second marriage was performed during subsistence of first marriage. Whether respondent no.1 is first wife or second wife. Whether first wife is alive or not. Learned trial Court raised all these questions and observed that these questions remained unanswered and it is observed that there is no death certificate of first wife if she is not alive. It is also observed that despite ample opportunity the applicant failed to put all these facts on record. On these grounds, the application has been rejected by the learned trial Court.

7. The applicant being aggrieved by the said order referred this appeal on the grounds that the respondent nos.3 and 4 the daughters of first wife and step-sisters of applicant have not

raised any objections before the trial Court. This clearly shows that there has been no illegality or irregularity in the application and trial Court was not required to raise the questions which have been raised and passed the illegal order. The petition clearly shows that respondent no.1 is wife and applicant no.1 and respondent no.2 and 3 are the sons of deceased Dattatray. In such circumstances, the rejection of application is absolutely illegal. Finally, it is prayed to allow the appeal and grant the heirship certificate.

8. Respondent no.1 to 3 although duly served with notice of this appeal, they failed to appear. Hence, appeal proceeded *ex parte* against them as per order below Exh.1 dated 10/03/2026. Respondent no.4 and 5 appeared and filed their purshis at Exh.13 stating that they have no objection for giving heirship certificate to appellant.

9. Perused the appeal memo. I have also gone through the documents produced by the appellant. I have also gone through the order passed by the learned Trial Judge.

10. Following points arise for my determination and I have given findings thereon with reasons stated below.

Sr.
No.

POINTS

FINDINGS

- 1) Whether the order passed by learned In the affirmative. Trial Judge is illegal ?

2) Whether interference is required in In the affirmative.
impugned order ?

3) What order ?

As per
final Order.

REASONS

As to Point Nos.1 to 3:-

11. All the points are interlinked with each other, therefore, I discussed all the points together.

12. On perusal of order passed by learned trial Judge, it appears that much stress is given upon non-mentioning of name and date of death of first wife by the applicant in the application. It is also observed that no details and specifications have been given by applicant in the petition. The application shows that the respondent no.3 and 4 have been shown to be daughters of first wife of Dattatray and applicant and respondent no.2 and 3 are the sons from second wife of Dattatray who has been shown to be respondent no.1. It is also material to note that the trial Court could have direct the petitioner to get the petition corrected by way of amendment and could have granted heirship certificate. It is material to note that respondent no.3 and 4 have no objection and they are accepting that respondent no.1 is their step-mother and applicant and respondent no.2 and 3 are their step-brothers. In such circumstances, there were no hurdle to grant heirship certificate in favour of applicant and all the respondents. Only on technical grounds such application should not have been rejected.

Therefore I am of opinion that the order passed by trial Court is illegal and interference is required in impugned order. Consequently I answer the point no.1 and 2 accordingly and proceed to pass the following order.

ORDER

1. Appeal is partly allowed.
2. The matter is remanded to trial Court with direction to applicant that he shall make necessary amendment in the application as regards to specification of name of first wife and date of her death and also mention respondent no.1 to be wife of deceased Dattatray specifically.
3. There is no necessity of any further proceeding except filing of affidavit by petitioner.
4. The trial Court shall decide the application a fresh.
5. The trial Court is directed to decide the present application expeditiously.
6. Record and proceeding be sent to trial Court.
7. Inform the trial Court accordingly.

Date :- 18.04.2026

**(A. M. Ambalkar)
District Judge-1, Ratnagiri.**

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

Case Number		Civil Appeal 02/2026
Name of Stenographer	:-	Shri. Rajesh G. Rahate
Name of Court	:-	District Court-1 Ratnagiri.
Date of Dictation on computer	:-	18.04.2026
Order signed by the PO. on	:-	18.04.2026
Order uploaded on	:-	18.04.2026