

MHRT070008572025

Civil M.A. No.82/2025Suhasini Barde & Ors. V/s. Kiran
Barde**ORDER BELOW EXH.51**
(Passed on 13.06.2026)

The present application is filed by the non-applicant for issuance of witness summons to the witness namely Adv.D.K.Katkade as per Order 16 Rule 1(2) of the C.P.C.

02. The non-applicant vide this application contends that, present application is filed by the applicant against the non-applicant for grant of heirship certificate. The non-applicant has produced on record divorce deed along with Exh.46 dated 17.06.2013. For the purpose of proving said divorce deed executed between applicant and deceased Amol Barde it is necessary to issue summons to witness viz. Adv.D.K.Katkade along with Notary Register dated 17.06.2013 to give evidence. Hence, non-applicant prayed that, application may be allowed and witness summons may be issued to witness.

03. Applicant filed her say to the present application at Exh.52 and strongly opposed the application on a ground that, application filed by non-applicant is false and misleading. The divorce deed dated 17.06.2013 is a unregistered document and cannot be read in evidence. Previous application filed by non-applicant has been rejected. Hence,

she prayed to reject the application.

04. Heard the Ld. Advocate for the non-applicant Smt.S.V.Sansare and Ld. Adv.Shri.Sawant for the applicant.

05. Perused the application and say filed by the non-applicant. The present application is filed by the applicant against the non-applicant for grant of heirship certificate of deceased Amol Barde. At present matter is posted for adducing evidence of the non-applicant. In the facts of the case in hand, non-applicant has prayed to issue summons to witness namely Adv.D.K.Katkade along with Notary Register dated 17.06.2013 to give evidence in respect of notarized divorce deed produced on record along with Exh.46/1.

06. At this stage it is relevant to note case law of Orissa High Court in **Partha Sarathi Das v. State of Orissa & Ors., 2023, SCC Online Orissa 5671**, wherein it is held that, “It is clear from the plain reading of Section 8 of the Notaries Act, 1952 and sub-rule (8) of Rule 11 of the Notaries Rules, 1956 that execution of marriage or divorce affidavit is not the function of the Notary. The functions of Notaries as envisaged in Section 8 of the Notaries Act, 1952 and sub-rule (8) of Rule 11 of Notaries Rules, 1956 do not authorise any Notary to notarise an affidavit of marriage or divorce. Neither the Notary is authorized to certify the marriage nor competent to execute the divorce deed under the Notaries Act, 1952 and the Notaries Rules, 1956. A Notary has not been appointed as a Marriage Officer,”. Hence, notary Advocate cannot be called upon for the purpose of proving divorce deed produced on

record along with Exh.46/1. Hence, application deserves to be rejected. Hence, the following order-

ORDER

- 1) Application Exh.51 is rejected. No order as to Costs.
- 2) Non-applicant is at liberty to prove divorce deed produced along with Exh.46/1 in view of provisions of Indian Evidence Act, 1872.

Place - Chiplun
Date - 13.06.2026

(K.A. Powar)
J.M.F.C., Chiplun.

CERTIFICATE

I affirm that the contents of this PDF file Judgment/order are same, word to word, as per the original Judgment/order.

Name of Stenographer	Mr. S. J. Thorat
Name of Court	C.J.J.D. & J.M.F.C., Chiplun.
Date of publish	13.06.2026
Order Signed by the P.O. on	13.06.2026
Order Uploaded on	13.06.2026