

MHSN110000732020



ORDER BELOW EXHIBIT 26 IN Civ.M.A.No.1/2020
(Sanjay Bhimrao Salunkhe Vs Madhukar Namdeo
Nhavi (Salunkhe)

1] The non-applicants have filed application on the point of tenability and limitation of the application before this Court.

2] It is contention of non-applicants that, non-applicants have filed Civil M.A. No.4/1993 for succession and it was allowed on 12/07/1993 in favour of non-applicants. The applicants have filed revocation application before this Court. The matter is posted for recording of evidence. It is the contention of non-applicants that, the application of succession certificate does not come within any of the grounds mentioned in Section 383 of Indian Succession Act and the non-applicants have right to file appeal before the Higher Court. The applicants are not having any documentary evidence to show that they were legal heirs of deceased Namdev. Moreover, the application for revocation is not tenable in this Court. Moreover, it is further submitted that, there is delay in filing application of revocation. Hence, considering all these aspects the non-applicants have prayed to allow the application and dismiss the main application filed by the applicant.

3] Applicants have filed their say overleaf the application and contended that, the applicants were not party to the succession certificate which was granted on 12/07/1993. So question of filing appeal before the Court will not arise at all. This Court having jurisdiction to entertain the revocation application. This Court has

issued notice to non-applicants and has taken cognizance hence this Court having jurisdiction. Considering all these aspects prayed to reject the application.

4] Heard both the advocates. I have gone through the proceedings and documents filed on record. On perusal of succession certificate issued in the name of non-applicants, it can be seen that, the applicants were not party to the application. The applicants are grand son of deceased Namdev Salukhe. The non-applicants have obtained heirship certificate being wife and children of deceased Namdev Salunkhe. It is contention of the applicants that, father of applicants Bhimrao is the son begotten from Tarubai who is first legally wedded wife of Namdev Salunkhe and Namdev has having illicit relationship with Hirabai i.e. deceased non-applicant No.4 and non-applicant Nos. 1 to 3 are their children. Considering these grounds raised by applicants it can be *prima-facie* seen that, deceased Bhimrao (father of plaintiff) is also legal heirs of Namdev Salunkhe but the fact was not come before the Court int the succession application No.4/1993. This ground is *prima-facie* sufficient for the tenability of revocation application.

5] On perusal of provision of Indian Succession Act the aggrieved party can file appeal under Section 384 before Higher Court or he may filed revocation application under Section 383 of Indian Succession Act. The choice is with the aggrieved party. Moreover, it is settled principle of law that the jurisdiction for filing revocation application under Indian Succession Act, 1925 lies with District Court or the Court that, originally granted the succession

certificate. The record shows this Court has granted succession certificate, hence the revocation application is tenable before this Court.

6] No limitation period is prescribed for filing revocation application in the Indian Succession Act. On perusal of provisions of The Limitation Act, 1963 no time limitation provision is given for filing revocation application. Hence, in view of provisions of residue Section Article 137 of the Limitation Act, 1963 shall be applicable for filing the revocation application under Section 383 of Indian Succession Act and the period is three years from the time when the right to apply accrues. The right to apply accrues can be said from the date of knowledge to the applicant about the grant of succession certificate. The applicant has specifically contended that, he has got knowledge about grant of succession certificate in the year 2018 and accordingly application for revocation filed within limitation.

7] Considering all this facts and circumstances, I do not find any merits in the application filed by non-applicants accordingly, I proceed to pass following order.

ORDER

- 1) Application Exhibit 26 stands rejected.
- 2) Costs in cause.

Date:- 16/01/2026
Atpadi

(R.B. Kulkarni)
Jt. Civil Judge Junior Division
Atpadi, Dist- Sangli

<u>CERTIFICATE</u>		
I affirm that the contents of this P.D.F. file Order/Judgment is same word for the word as per original Order/Judgment.		
Name of Steno	:-	Shri. A.S. Yadav, Steno (Grade-3)
Court Name	:-	R.B. Kulkarni Jt. CJJD & JMFC, Atpadi, Dist- Sangli
Date of Order/Judgment	:-	16/01/2026
Signed by PO on	:-	16/01/2026
PDF uploaded on	:-	16/01/2026