

**Succession Appln. No.13/2025**  
**Shanta vs Vanita**

**COMMON ORDER BELOW EXH. 01 AND 18**

The present application at Exh.18 is filed by the respondents under Order VII Rule 11 of the Code of Civil Procedure seeking rejection of the application filed by the applicant under Section 372 of the Indian Succession Act, 1925 for grant of succession certificate in respect of the amounts payable after the death of Janardan Dinkar Mandhare.

02. The respondents have contended that the present Court has no territorial jurisdiction to entertain the proceedings. The deceased Janardan Mandhare had been residing at Vashi, Mumbai for several years and prior to that at Chembur, Mumbai. He died on 30/04/2025 while on duty at Tata Power Company, Bhandup, Mumbai, after sustaining injuries in an accident and after undergoing treatment at Fortis Hospital, Mulund, Mumbai. Thus, the present proceedings filed before this Court are not maintainable.

03. The applicant has opposed the said application contending that she is the mother of the deceased and a Class-I heir under the Hindu Succession Act, and therefore she is entitled to claim share in the amounts such as provident fund, gratuity, insurance and other service benefits payable after the death of the deceased. According to the applicant, she has filed the present application seeking succession certificate, and therefore the application discloses a valid cause of action.

04. I have heard the learned advocates for both sides and perused the record.

05. The points that arise for determination are as follows, and I have recorded findings against each of them for the reasons discussed below:-

<b>Sr. No.</b>	<b>POINTS</b>	<b>FINDINGS</b>
1.	Whether the respondents prove that the application filed by the applicant under Section 372 of the Indian Succession Act, 1925 does not disclose any cause of action, and is liable to be rejected under Order VII Rule 11 of the Code of Civil Procedure ?	...No.
2.	Whether this Court has territorial jurisdiction to entertain and decide the present application for grant of succession certificate ?	...No.
3.	Whether the application (treated as plaint) is liable to be returned for presentation before the competent Court under Order VII Rule 10 of the Code of Civil Procedure ?	...Yes.
4.	What order ?	<b>As per final order.</b>

### REASONS

#### AS TO POINT NOS.1 TO 3:-

06. At the outset, it is necessary to note that the present proceedings are initiated under Section 372 of the Indian Succession Act, 1925. Under Section 295 of the Indian Succession Act, whenever an application for probate, letters of administration or succession certificate becomes contentious, the proceedings are required to be

treated, as nearly as may be, in the same manner as a suit and the application is treated as a plaint, while the objections are treated as a written statement.

07. In the present case, the respondents have raised objections to the grant of succession certificate, and therefore the proceedings have assumed a contentious character. Consequently, the application is required to be treated as a plaint and the provisions of the Code of Civil Procedure become applicable.

08. The learned advocate for the applicant relied upon the following case laws :-

1. Hon'ble Rajasthan High Court, in case of **Seva Ram and Others. vs. Smt.Saudine Jawahar And Another, Civil Revision No.290 of 1980 decided on 05 February, 1986( 1986 Rajasthan LR 947)**, observed that,

"2. Jawahar Higorani at the time of his death was posted as Principal of the Government College at Jaisalmer. His wife, petitioner, who filed the application for Succession Certificate before the learned District Judge, Udaipur, was at the relevant time posted as Senior Lecturer in Meera Girls College at Udaipur and their son Ajay Jawahar was also residing with his mother Smt. Saudine Jawahar at Udaipur. The jurisdiction of the Court granting Succession Certificate is governed by the provisions of Section 371 of the Indian Succession Act, which reads as under:

371. Court having jurisdiction to grant certificate : The District Judge within whose jurisdiction the deceased ordinarily resided at the time of his death, or, if at the that time he had no fixed place of residence, the District Judge,

within whose jurisdiction any part of the property of the deceased may be found, may grant a certificate under this part.

3. Thus, the District Judge, Udaipur, could have jurisdiction to grant Succession Certificate in respect of the estate of the deceased Hingorani if he ordinarily resided at the time of his death at Udaipur or if at that time he had no fixed place of residence, or if he left part of his property at that place”.

02. Hon’ble Bombay High Court in case of **Ajay bandu Darekar and others vs. Adhikrao Baburao Deshmane and Anr. 2020(5)Mh.L.J. 672**, observed that, “In the light of the aforesaid legal position, readverting to the facts of the case, it is indubitable that the plaintiffs are neither seeking the specific performance of the contract for sale nor the refund of the amount thereunder. The plaintiffs have based their claim on the acknowledgment of liability, and agreement to pay, the said amount, which was allegedly made within the limits of the Court at Islampur. It is the plaintiffs further claim that on account of the failure and refusal of defendant no.1 to pay the balance amount and the additional amount, agreed to be paid towards the compensation, the plaintiffs suffered physical and mental harassment, pain and agony within the local limits of the jurisdiction of the Court at Islampur. Thus, the twin conditions of the plaintiffs having suffered wrong within the jurisdiction of the Court at Islampur and the defendants residing at a place beyond the local limits of the jurisdiction of the Court at Islampur, are satisfied.

Whether the plaintiffs, in fact, suffered injury and loss and are entitled to compensation for the same are the matters for

adjudication. However, it cannot be said that the claim of the plaintiffs of having suffered the wrong within the local limits of the jurisdiction of the Court at Islampur is not disclosed by the averments in the plaint.

In this view of the matter, the learned Civil Judge was justified in recording a finding that Section 19 of the Code governed the situation at hand and, thus, the institution of the suit at Islampur, in exercise of the option contained therein, was in order”.

09. While considering an application under Order VII Rule 11 CPC, the Court has to examine only the averments made in the plaint and determine whether it discloses a cause of action or whether it is barred by law. In the present case, the applicant has pleaded that she is the mother of the deceased and that certain service benefits such as provident fund, gratuity and insurance amounts are payable after the death of the deceased. On the basis of these averments, the applicant has sought a succession certificate. These pleadings clearly disclose a cause of action. Therefore, the plaint cannot be rejected under Order VII Rule 11 CPC.

10. However, the respondents have also raised a specific objection regarding territorial jurisdiction. In this regard, it is necessary to refer to Section 371 of the Indian Succession Act, 1925, which provides that the District Court within whose jurisdiction the deceased ordinarily resided at the time of his death, or if he had no fixed place of residence, the Court within whose jurisdiction any part of the property of the deceased may be found, shall have jurisdiction to grant a succession certificate.

11. From the averments in the application itself, it appears that the deceased was residing at Vashi, Mumbai, and he died while on duty at Bhandup, Mumbai. The employment of the deceased was also at Mumbai, and the amounts claimed such as provident fund, gratuity and other service benefits are payable through the employer situated at Mumbai. Thus, the material averments in the application itself indicate that the deceased ordinarily resided at Mumbai and the debts and securities in respect of which the succession certificate is sought are also connected with Mumbai.

12. In view of the provisions of Section 371 of the Indian Succession Act, this Court does not appear to have territorial jurisdiction to entertain the present proceedings. However, lack of territorial jurisdiction is not a ground for rejection of plaint under Order VII Rule 11 CPC. In such circumstances, the appropriate course is to return the plaint for presentation before the proper Court in accordance with Order VII Rule 10 of the Code of Civil Procedure. Therefore, though the plaint cannot be rejected under Order VII Rule 11 CPC, it is necessary to return the same to the applicant for presentation before the Court having territorial jurisdiction. Resultantly point Nos. 1 and 2 are answered in negative, point No.3 is answered in affirmative, and in answer to point No.4, the following order is passed :-

**ORDER**

1. The application filed by the respondents under Order VII Rule 11 of the Code of Civil Procedure seeking rejection of the plaint is rejected.

2. However, it is held that this Court lacks territorial jurisdiction to entertain the present proceedings.
3. Accordingly, the plaint (application under Section 372 of the Indian Succession Act, 1925) is returned to the applicant under Order VII Rule 10 CPC for presentation before the Court having competent territorial jurisdiction.
4. Office to return the plaint to the applicant after due endorsement as required under Order VII Rule 10 CPC.

**( A.G.Deshmukh)**

Civil Judge Senior Division, Wai  
( Dist- Satara).

Wai  
Date: 09.03.2026