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CIVIL M.A. NO. 142/2022

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RAVALYA DEVALA VASAVE
RAHASE & ORS. VS. NIL.

ORDER PASSED BELOW EXH. NO. 1
(Passed on 03.03.2023)

Applicants have filed present application for issuance of Heirship Certificate under Rule VIII of the Bombay Regulation Act.

2] **It is subimtted by the applicant that:-**

Applicant No. 1 Ravalya Devala Vasave is son, Applicant No. 2 Sayaka Furta Padvi and Applicant No. 3 Mogara Manashi Thakare are daughters of the deceased Devala Kalu Vasave who died on 11.03.2001 at village Chandsaili, Tal. Dhadgaon/Akrani, Dist. Nandurbar. As there are no legal heirs to the deceased than the applicants, they have filed present application for getting the Heir-ship Certificate for filing the same before the revenue authorities situated in the jurisdiction of this court.

3] After filing of application, Paper publication and citation notice was issued for calling upon objection from the public at large. Accordingly, citation notice was issued the Grampanchayat and its copies are placed on record at Exh.7 and the paper publication was issued in daily news paper "*Dainik Varta*" dated 19.01.2023 and its copy placed at Exh.11. However, no one turned up till today to object or contest the instant application.

4] Perused the application, evidence tendered on affidavit and the documents on record. Heard Ld. Advocate for the applicants. Following points arise for my determination; my findings thereto with reasons thereon are as follows..



Sr. No.	POINTS FOR DETERMINATION	FINDINGS
1.	Whether applicants prove that, they are the only legal heirs of deceased Devala Kalu Vasave ?	Yes
2.	Whether applicants are entitled to get legal heirship Certificate as prayed ?	Yes
3.	What Order ?	As per final order, application is allowed.

REASONS FOR THE FINDINGS

As to Point Nos. 1 to 3:

5] In support of their contention the applicants have examined Applicant No. 1 and one witness namely Olya Chandya Padvi and filed their evidence affidavit at Exh. 10 and 18 respectively. Apart from the oral evidence, applicants have produced documentary evidence on record i.e. Death Certificate of deceased Devala Kalu Vasave at Exh. 12, Verified Copies of Aadhar Cards of applicant nos. 1 to 3 at Exh. 13 to 15 respectively, Extract No. 8 at Exh. 16, Non surviving certificate of Hemadibai Kalu Vasave at Exh. 17 and the applicants have closed their evidence vide pursis Exh. 19.

6] Both witnesses deposed that, except applicants, nobody is legal heirs to deceased Devala Kalu Vasave. Applicants have published citation notice at Exh.7 and public notice in daily news paper “Dainik Varta” dated 19.01.2023 at Exh. 11 and produced paper in the case. But,



till today nobody has objected or resisted the present claim of the applicants.

7] Looking to the fact and circumstances, it appears that, present application for issuance of Heirship Certificate remained uncontested. The documents on record sufficiently proved that Devala Kalu Vasave was died on 11.03.2001 and applicants are being only legal heirs of Devala Kalu Vasave. Thus, in my view, there is no impediment in accepting contentions of the applicants that they are the only legal heirs of deceased Devala Kalu Vasave and that they are entitled for issuance of legal Heirship Certificate. Applicant Nos. 1 to 3 are the only legal heirs of deceased and there are no other legal heirs to the deceased Devala Kalu Vasave other than the applicants.

8] In the case of *Group Grampanchayat Sasavane – V/s. - Sunanda Shyamrao Bandisti -2011(2) Mh.L.J. 424* Hon'ble Bombay High Court has observed that, in a proceeding for heirship certificate, the Court is not required to determine title of the deceased to any property. It is required only to consider whether the persons claiming hereship certificate are the heirs of the deceased. If any person comes forward to claim nearer kinship than the applicants, the rival claims for the applicant and the person claiming nearer kinship and to be an heir would be considered by the Court. The Court may decline to grant heirship Certificate to any applicant and come to the conclusion that the applicants is not an heirs of the deceased or that there are nearer kins who are entitled to the heirship Certificate. The question of title to the property allegedly held by the deceased is alien to such inquiry. Whether



the deceased and any title to the property is not and indeed cannot be decided by the Court in an application for an heirship Certificate made under the Regulation. The granting of said heir-ship certificate shall not finally determine or injure the rights of any person. The Heir-ship Certificate is meant for only time being management of the property.

9] Considering all the above aspects, and after hearing Ld advocate A. G. Pawara for applicants, I do not find any hurdle in allowing the present application. Accordingly, I answer the point Nos. 1 & 2 in affirmative and to answer point No. 3, I proceed to pass following order..

ORDER

1]	The application is allowed.
2]	Issue Heirship Certificate in the names Applicant No. 1 Ravalya Devala Vasave, Applicant No. 2 Sayaka Furta Padvi and Applicant No. 3 Mogara Manashi Thakare are being the legal heirs of deceased Devala Kalu Vasave as per the provisions under Bombay Regulation VIII of 1827 for the purposes as prayed in application.
3]	Applicants to comply with the paragraph No.312 of the Civil Manual.
4]	Be noted.

Place: Dhadgaon
Date: - 03.03.2023

(Dipak G. Kankhare)
Civil Judge Jr. Div., Dhadgaon.

**CERTIFICATE**

I, affirm that the contents of this PDF file are word to word as per Original Order.

Name of the Stenographer :- Rajesh R. Nikam,

Name of the Court :- Civil Judge J.D. & J. M. F.C.,
Dhadgaon.

Order Signed by
Presiding Officer on: :- 03.03.2023

PDF Uploading Date :- 03.03.2023