

MHWS100000602026

**ORDER BELOW EXH. 01 IN CIVIL M.A. NO. 16/2026****Shaikh Mujeeb Shaikh Karim & others Vs. Nil**

The applicant **Nos.1 to 5** have filed present application for getting heirship certificate vide Bombay Regulation Act 1827, Section VIII. According to the applicants, deceased namely **Shaikh Abdul Karim Mohd. Husen** is the father of applicant Nos.1 to 4 and husband of applicant No.5, who died on **02.10.2003**. The applicants are only the legal heirs of deceased **Shaikh Abdul Karim Mohd. Husen**. Hence, the application.

02. In support of this application, applicant No.1 filed his evidence affidavit at **Exh.08**. Applicants have filed on record original copy of death certificate of deceased **Shaikh Abdul Karim Mohd. Husen**, and verified copies of Aadhar Card of the applicants at **Exh.03/1, 07/2-5** and paper proclamation issued in daily newspaper **Dainik Punya Nagari** dated **22.01.2026** at **Exh.07/1**. Applicants filed evidence close pursis at **Exh.09**.

03. Herein, no one is appeared in response to the paper publication issued in daily newspaper as well as to the proclamation (**Exh.05**) published by the Bailiff. From the death certificate of deceased **Shaikh Abdul Karim Mohd. Husen** died on **02.10.2003**. So also from the evidence affidavit of applicant No.1, regarding the heirship certificate of the applicants, shows that the applicants are the legal heirs of deceased **Shaikh Abdul Karim Mohd. Husen**. Herein, no one is appeared and challenged the contentions and the documents placed on record by the applicants.

04. The object of the Bombay Regulation VIII of 1827 is to provide for the formal recognition of heirs, executors and administrators and for the appointment of administrators and managers of the property by the Courts. The Hon'ble Bombay High Court in the case of **In Re : Ganpati Vinayak Achwal reported in 2014 SCC Online Bombay 1193 : (2014) 6 Mah.L.J.683 : (2014) 5 Bom CR 743** in Para 5 held as follows :

“5.The position of law that emerges from the above provisions is that, an heirship certificate does not bestow the status of an heir upon a person.

Grant of such a certificate is only a formal recognition of his existing status as an heir. An heir or executor or legal administrator, by his such status, can assume management of the property of the deceased even without a formal recognition by the Court. A person may obtain heirship certificate in any of the three situations i.e. (i) if he so desires (ii) where his right as an heir is disputed, and (iii) in order to give confidence to the persons in possession of or indebted to the estate and to deal with them. Thus grant of heirship certificate is solely, for the convenience of the heir. Beyond that, it is of no significance. The rules also indicate that, it is mandatory for the Court to issue an heirship certificate, if after publication of citation, no objector comes forward within one month from the date of publication. In that case, the Court shall forthwith receive such proof as may be offered of the right of the person making the claim, and if satisfied, shall grant a certificate in the prescribed form declaring him the recognized heir of the deceased. The scope of such enquiry is limited to ascertain the claim of heirship of the applicant. The petitioner's claim and the impugned order are required to be appreciated against the above legal position."

05. Oral as well as documentary evidence of the applicants are gone unchallenged as there is no respondent to take cross-examination. Applicant on affidavit stated that apart from the applicants, there is no other legal heirs to the deceased. Therefore, considering unchallenged evidence of applicants, it appears that **applicant Nos.1 to 5** are the legal heirs of deceased **Shaikh Abdul Karim Mohd. Husen**. Hence, relying upon the documents referred above and evidence affidavit of the applicants, it will be proper to issue the heir-ship certificate as prayed for. Accordingly, I proceed to pass the following order :-

ORDER

1. The application is allowed.
2. Issue Heirship Certificate in favour of **Applicant Nos.1 to 5** in prescribed proforma, to the effect that they are the legal heirs of deceased **Shaikh Abdul Karim Mohd. Husen**, on payment of requisite Court fees.

Place : Malegaon.
Date : 16.04.2026.

[**A. S. Koshti**]
Jt. Civil Judge (J.D.) Malegaon
Dist.Washim

<u>CERTIFICATE</u>		
I affirm that, contents of this PDF file is same word to word, as per original Order :-		
1. Name of the Stenographer	:-	Shivam B.Patange (L.G.)
2. Court Name	:-	Jt. C.J.J.D. & J.M.F.C., Malegaon
3. Order dated	:-	16.04.2026.
3. Order Signed by the P.O.	:-	16.04.2026.
4. Order uploaded on	:-	16.04.2026.