

Received on :08/10/2020

Registered on :01/12/2020

Decided on :29/04/2021

Duration : 00Y 06MS 21DS

**IN THE COURT OF JT. CIVIL JUDGE, SENIOR DIVISION, THANE,
AT THANE**

Civ.Misc. Application No.514/2020

(CNR No.MH02-002661-2020)

Exh.No.

1. Smt. Suchitra Rajkumar Vidhate

Age :55 years, Occ.:- Housewife

2. .Kumar. Devawrat Rajkumar Vidhate ,

Age:- 28 years, Occ. Service,

3. Kumari. Yugandhara Rajkumar Vidhate

Age:- 24 yrs., Occ. Education

All R. temporary address at:- B-5/304, Alaknanda

CHS Ltd., Sector 19, Nerul(E),Navi Mumbai.

Permant address: -Bhagavati HeritageCHS,Ltd,

Flat no.901, J- Wing, Sector-21, Kamothe,

Navi Mumbai-410209

...Applicants.

Vs

Nil

Judgment

(Delivered on 29th April, 2021)

1. This is an application moved by the applicants as per the provisions contained in Mumbai Regulation VIII of 1827, to issue Heirship Certificate.

Brief facts

2. It is contended by the applicants that, applicant no.1 is wife, applicant nos.2 to 3 are son and daughter of the deceased Rajkumar Marutirao Vidhate and as such are the only legal heirs and representative of the deceased who expired intestate on 08/07/2020 at Apollo Hospital, Belapur, Navi Mumbai. The father of deceased namely Marutirao Ramchandra Vidhate is also died on 02/05/2003 at village Achegaon, Tal;-South Solapur, Dist:-Solapur. Deceased Rajkumar Marutirao Vidhate and Marutirao Ramchandra Vidhate have left immovable property which is mentioned in Schedule of the property in the application. The applicants are the only legal heirs of the deceased Rajkumar Marutirao Vidhate and Marutirao Ramchandra Vidhate . The applicants have filed this application for declaration that, they are the legal heirs of deceased in the application and they want this certificate to enter their names in the concern record of the property owned by deceased in the application.

3. After presenting the application, public notice was issued to all persons in 'Konkan Sakal' newspaper dated 19/12/2020 under Appendix-A of said Act and proclamation of court at Ext.12 . But, no one appeared and filed their objection in respect of claim of the applicants.

4. Heard learned Advocate for the applicants.

5. The points for determination along with findings and reasons thereon are as follows: -

SR. NO.	POINTS	FINDINGS
1	Whether applicants proved that they are entitled for Heirship Certificate as claimed ?	.. affirmative
2	What Order ?	As per final order.

REASONS

AS TO POINT NO.1 & 2 :

6. The applicants are desirous of having their rights formally recognized by the Court for the purpose of dealing with the property of deceased Rajkumar Marutirao Vidhate and Marutirao Ramchandra Vidhate. This Court has issued a proclamation in the prescribed form Appendix-A of said Act and invited all persons who want to dispute the recognition of the applicants, to appear in the Court within one month from the date of proclamation and enter their objection.

7. It is admitted position that, despite of such proclamation, none have raised objection. Applicant Nos.1 to 3 have filed their claim affidavits at Exh.15,16 and 17 respectively and evidence close pursis vide Exh.18. Applicants have filed the following documents below list at Exh. 14:-

1. Photocopy of death certificate of deceased of Rajkumar Marutirao Vidhate (Sr.No.14/1)
2. Photo copy of ADHAR Card and PAN Card of Deceased (S.No.14/2)
3. Photo copy of ADHAR, PAN, Ration Cards of Applicants (Sr.No.14/3)
4. Photo copy of registered deed of flat at kamothe (Sr.No.14/4)
5. Photo copy of registered deed of flat at kamothe (Sr.No.14/5)

6. Photo copy of registered deed of flat at kamothe (Sr.No.14/6)
7. Photo copy of 7/12 extracts (Sr.No.14/7 and 14/8)
8. Paper publication daily newspaper Dt: 19/12/2020 (Sr.No.14/9)

8. Having considered the pleadings coupled with evidence, documents on record, it is evident that the deceased is husband of applicant no.1 and father of applicant no.2 to 3, who died on 08-07-2020. The deceased has not executed any testamentary documents in respect of property mentioned in the application. The said property is standing in the name of deceased Rajkumar Marutirao Vidhate and Marutirao Ramchandra Vidhate. Thus, considering the above contention as per the section II of The Bombay Regulation Act, 1827, the one-month notice was issued and proclamation was declared about the inviting any objection of the recognition of the legal heir of the deceased Rajkumar Marutirao Vidhate and Marutirao Ramchandra Vidhate, but, there there is no objection despite of proclamation at Exh.05 and publication published in daily newspaper "Konkan Sakal" dtd.19-12-2020. Therefore, there is no other claim for the legal heirs of deceased Rajkumar Marutirao Vidhate and Marutirao Ramchandra Vidhate except the applicants.

9. In respect of the inquiry for grant of legal heir certificate under the provisions of Bombay Regulation Act, there is no question involved of any property or right in property. The Court is required to determine who are the legal heir or only recognition of the legal heir of deceased Rajkumar Marutirao Vidhate and Marutirao Ramchandra Vidhate. It is required to consider whether persons claiming heirship certificate are the heirs of the deceased. Under such circumstances, considering the claim affidavit of applicants,

other documents filed along with list at Exh.3 and 14, I am satisfied that the applicants are the only legal heirs to the deceased Rajkumar Marutirao Vidhate and Marutirao Ramchandra Vidhate. Hence, it is justifiable to issue Heirship Certificate in the name of applicants for recognition of legal heir of the deceased Rajkumar Marutirao Vidhate and Marutirao Ramchandra Vidhate as per section II of said Act, for the purpose of legal management or recovery of property as per provision of said Act. Thus, in view of aforesaid reasons, I answer point no.1 in the affirmative and in answer to point No.2, I, pass the following order:-

ORDER

1. The application is allowed.
2. Issue Heirship certificate in the names of applicants as per the section III of The Bombay Regulation Act, in the format Appendix-B that they are legal heirs of the deceased Rajkumar Marutirao Vidhate and Marutirao Ramchandra Vidhate.
3. The applicants shall within six months from the date of this certificate, exhibit in Court a full and true inventory of the property and credits in their possession under this certificate and also, within one year from same date, to render to the Court a true account of the said property and credits showing the assets which have come to their hands and the manner in which they have applied or disposed of. (Paragraph No.312 of Civil Manual)

4. The applicants shall pay court fees as per Article-12 of the Maharashtra Court Fees Act, 1959 on market value of property.

(Judgment is dictated and pronounced in open Court.)

Date : 29/04/2021.
Thane.

(S.S. Indalkar)
Joint Civil Judge, (S.D.), Thane