

ORDER BELOW EXH. 1 IN CIVIL M.A. 206/2022

(Smt. Sangeeta Gajare & Ors. Vs. Vaishali Birajdar & Ors.)
[CNR No. MHSN05003723-2022]

1. Present petition is filed seeking Heirship Certificate.
2. A few facts necessary to notice for disposal of this petition are that, the Deosthan namely Shri. Maruti Dev Itkare, Tal. Walwa, Dist. Sangli bearing P.T.R. No. A-698 (Sangli) was registered with public trust registration office at Sangli and name of Krishna @ Kisan Mahadeo Gajare was registered as its Trustee. Krishna @ Kisan Mahadeo Gajare died on 24/04/1998. After his death, applicant Nos. 1 to 4 with the consent of applicant Nos. 5 and 6 were working as Managers and trustees of the said trust. After the death of Krishna @ Kisan Mahadeo Gajare, in view of Annexure-2 of the Public Trust Registration office there was no provision to appoint another Manager or Trustee by way of hereditary, therefore, in order to get enter the names of new trustee, the applicants have filed the present application.
3. Late Krishna @ Kisan Mahadeo Gajare was the founder of Shri. Maruti Dev Itkare trust. The appointment of trustee is hereditary. Krishna @ Kisan Mahadeo Gajare died on 24/04/1998. After his death, his son viz. Dhanaji Kisan Gajare succeeded, he died on 09/10/2012. The daughter of Krishna @ Kisan namely Jayshri Ashok Teli expired on 14/07/1997

whereas her husband viz. Ashok Dagdu Teli expired on 31/05/1996. Respondent No. 1 Vaishali Balaso Birajdar is the daughter of Ashok and Jayshri and she is their sole heir. Mangal Baburao Teli, the daughter of Krishna @ Kisan, died on 22/01/2002 whereas her husband Baburao died on 02/08/2005, but succeeded and survived by respondent Nos. 2 to 5 being daughters whereas applicant No. 6 is his son. Applicant No. 1 is daughter of Krishna @ Kisan. Applicant Nos. 2 to 4 are grand-daughters of Krishna @ Kisan and daughters of late Dhanaji. Thus, they were informed that after the death of Krishna @ Kisan, for appointment of new trustee.

4. The name of Krishna @ Kisan Mahadeo Gajare is recorded in the PTR of Shri. Maruti Dev Itkare, Tal. Walwa, Dist. Sangli bearing P.T.R. No. A-698 (Sangli) as trustee and still it is on record of Schedule-I of said Trust, even after his death. So the applicants being his legal heirs had requested the Charity Commissioner, Sangli to record their names to PTR extract. However, the concerned authority asked the applicants to bring the legal heirship certificate from the Court. Therefore, in order to record their names to PTR extract of Shri. Maruti Dev Itkare, Tal. Walwa, Dist. Sangli bearing P.T.R. No. A-698 (Sangli), applicants have filed the present petition for obtaining legal heirship certificate.

5. The notice of petition is duly served upon respondent Nos.

1 to 5. However, they did not appear. Hence, petition was ordered to proceed *ex parte* against respondent Nos. 1 to 5.

6. After presentation of petition, proclamation (Exh. 15) was issued. Said proclamation is duly served with endorsement of bailiff of this Court. Likewise due citation (Exh. 14) was issued in Daily *Tarun Bharat* dated 02-02-2023. None appeared to resist the claim of the applicants.

7. In support of application, applicant No. 1 Smt. Sangeeta Dhanaji Gajare has examined herself as PW-1 at Exh. 18. She reiterated entire contentions in her applicant in affidavit in lieu of examination-in-chief. Not only this, applicants have placed reliance on documentary evidence i.e. certified copy of Schedule-2 of PTR extract bearing registration No. 2708/1952 at Exh. 36; Death extract of Kisan Mahadeo Gajare at Exh. 22; Death extract of Indubai Kisan Gajare at Exh. 23; Death extract of Jayshri Ashok Teli at Exh. 24; Death extract of Ashok Dagdu Teli at Exh. 25; Death extract of Mangal Baburao Teli at Exh. 26; Death extract of Baburao Dagdu Teli at Exh. 27; Death extract of Dhanaji Kisan Gajare at Exh. 28.

8. Perusal of certified copy of Schedule-2 of PTR extract bearing registration No. 2708/1952 (Exh. 36) maintained by the Assistant Charity Commissioner-1, Sangli Region, Sangli depicts that the Deosthan namely Shri. Maruti Dev Itkare, Tal. Walwa, Dist. Sangli bearing P.T.R. No. A-698 (Sangli) was registered

with the office of Assistant Charity Commissioner-1, Sangli Region, Sangli and name of Krishna @ Kisan Mahadeo Gajare was registered as its Trustee. It further depicts that applicants and respondents have a hereditary right to manage the temple affairs of Shri. Maruti Dev Itkare. Considering all these aspects I have no hesitation to declare all applicants and respondents as legal heirs of Shri. Maruti Dev Itkare, only to the extent for filing change report in respect of change in the executive council and office bearers of trust namely Shri. Maruti Dev Itkare, as per law. In the result of all above discussion following order is passed.

ORDER

- (1) Application is allowed.
- (2) Issue Heirship Certificate vide provisions of the Bombay Regulation Act, 1827 on payment of requisite court fees in the name of applicant Nos. 2 to 4 being the daughters of pre-deceased son namely Dhanaji, applicant No. 1 being widow of pre-deceased son Dhanaji, applicant No. 5 being daughter and applicant No. 6 being son of pre-deceased daughter namely Mangal, as well as, respondent No. 1 being daughter of pre-deceased of daughter namely Jayshri and respondent Nos. 2 to 5 being daughter of pre-deceased daughter namely Mangal of late Krishna @ Kisan Mahadeo Gajare, showing them as legal heirs of deceased Krishna @ Kisan Mahadeo Gajare only to the extent for filing change report, in respect of

change in the executive council and office bearers of trust namely Shri. Maruti Dev Itkare, Tal. Walwa, Dist. Sangli bearing P.T.R. No. A-698 (Sangli).

Islampur.

Date : 21/11/2023

Sd/-

(M.M. Chitale)

Joint Civil Judge Senior Division,
Islampur