



Civil M.A. No. 112/2022
Shaikh Mehboob +01 v/s Nil
CNR No. MHWS080016232022

ORDER BELOW EXH-01
(PASSED ON 08.08.2023)

This is an application for grant of legal heir-ship certificate as per Bombay Regulation Act.

02 Applicant no. 01 and 02 are the sons of the deceased **Shaikh Bismilla Shaikh Baban** who died on **01.01.1998** at own house, Risod Tq. Risod Dist. washim. Applicants have contended that they are the only legal heirs of the deceased. Therefore, applicants prayed for issuance of heir-ship certificate.

03 The proclamation was issued in daily newspaper “Daily Punya Nagari” dated 10.06.2023 vide Exh-15 calling objection from the public inviting all persons who dispute the rights of applicants within one month from the date of proclamation and enter their objection. However, nobody appeared to resist the claim of applicants and enter any objection disputing the right of applicants.

04 The applicants have also filed affidavit of applicant no. 01 Shaikh Mehboob Shaikh Bismilla in lieu of examination-in-chief at Exh-09 stating that the applicants are the only legal heirs of deceased and closed their evidence by filing pursis vide Exh-16. Applicants no. 02 informing the evidence adduced by applicant no. 01 be construed as their evidence. The evidence of applicants remained unchallenged. They have also filed on record the death certificate of deceased vide Exh-11, and verified copies of their Adhar cards vide Exh-13 and 14. They also stated that except applicants there are no any heirs of deceased. Learned Advocate for applicant also stated that, the mother of deceased also died her death certificate at exh-12.

05 An Heir is defined under Mohammedan law as sharer, residuaries and distant kindred. Therefore, applicants being sons of the deceased **Shaikh Bismilla Shaikh Baban** are entitled for recognition as legal heirs of deceased. Thus, considering all above facts and documents filed on record, it appears that applicants are the only legal heirs of the deceased. Moreover, in case of *Re: Ganpati Vinayak Achwal, 2015(2) ALLMR 285 Hon'ble Bombay High Court* held that the heir-ship certificate is merely a formal recognition that the applicants are the legal heirs of the deceased. Moreover, a person may obtain heir-ship certificate if he so desires and where his right as an heir is not disputed. Thus, there is not limitation to obtain heir-ship certificate. Therefore, it will be proper to issue heir-ship certificate to the applicants as per Rule 02 of Bombay Regulation VIII of 1827. Therefore, application deserves to be allowed. Hence, the following order;

ORDER

1. Application is allowed.
2. Issue heir-ship certificate in favour of applicants as legal heirs of deceased **Shaikh Bismilla Shaikh Baban** in prescribed format.
3. This heir-ship certificate is formal recognition and does not grant any right in the property of deceased.
4. Applicants to submit court fee stamp as per rules.

Date: 08.08.2023

(Y.D. Koinkar)
Civil Judge Jr. Division, Risod.

CERTIFICATE

I affirm that the contents of this P.D.F. File Judgment/Order are same word to word, as per the original Judgment/Order.

Name of the Stenographer : Rohit D. Pandit (Stenographer L.G.)

Name of court : C.J.J.D.& JMFC;Risod

Date : 08.08.2023

Judgment/Order signed by the
Presiding Officer : 08.08.2023

Judgment/Order uploaded on : 08.08.2023