

Order passed below Ex.1

Read the application supported by affidavit. Perused pleading of Civil Misc.Application no.74/2017. Also perused the order passed by the court on that application on 22/12/2017. Heard learned Advocate Shri.P.G.Patil.

2. Upon such hearing and consideration, it appears that this is application filed by the applicant u/s 152 of Code of Civil Procedure for making amendment in the order passed in Civil Misc.Application no.74/2017 contending that he had filed Civil Misc.Application no.74/2017 in the court for getting heirship certificate in their names contending that they are widow, son, and daughter of deceased Dilipsing Rajesing Girase who died on 09/06/2017. Deceased Dilipsing Rajesing Girase and they are Hindus. Therefore, they are his heirs under the category of class-I heirs vide Hindu Succession Act, 1956. Hence, they had filed Civil Misc.Application no.74/2017 for getting heirship certificate of deceased Dilipsing Rajesing Girase in this court. Said application was allowed by this court on 22/12/2017. However, while filing the Misc.Civil Application no.74/2017, the name of applicant no.2 was mistakenly written as Tikalsing Dilipsing Sisodiya (Girase) instead of Tilaksing Dilipsing Sisodiya (Girase). Accordingly, while passing the order, the court has mentioned his name as Tikalsing Dilipsing Sisodiya (Girase) in the order. However, in the claim affidavit of applicant no.2, public notice, Adhar Card, Ration Card as well as other documentary evidence the name of applicant no.2 was Tilaksing Dilipsing Sisodiya (Girase). But, as in the cause title of Civil Misc.Application no.74/2017, the name of applicant no.2 was written as Tikalsing Dilipsing Sisodiya (Girase), the order was passed in that name. However, infact his name is Tilaksing Dilipsing Sisodiya (Girase). Therefore, it is necessary to amend said order in the interest of justice and correct name of applicant no.2 as Tilaksing Dilipsing Sisodiya (Girase) be mentioned in that order. If, this amendment is not carried out, he would suffer

irreparable loss. Therefore, he filed present application.

3. The learned Advocate for the applicant submitted that this omission is the accidental slip while observing the facts of the application of the applicant. This accidental slip can be corrected and the order can be amended to that effect vide section 152 of Code of Civil Procedure. Said procedure permits the court to do so.

4. In order to appreciate the contention of the applicant as well as submission of his Advocate, it is appropriate to consider the provision u/s 152 of Code of Civil Procedure. It reads as follows ;

Section 152 – Amendment of judgments, decree or orders

*Clerical or arith-metical mistakes in judgments, decrees, or
orders or errors arising therein from any accidental slip or omission
may at any time be corrected by the Court either of its own motion or on the
application of any of the parties.*

5. On perusal of facts or the pleading of the applicant in Civil Misc.Application no.74/2017, it appears that the name of applicant no.2 was mentioned as Tikalsing Dilipsing Sisodiya (Girase). On perusal of the order of the court in Civil Misc.Application no.74/2017, dated 22/12/2017, it appears that it was ordered to issue heirship certificate in the name of Tikalsing Dilipsing Girase (Sisodiya) along with Kokila Dilipsing Girase and Swati Pradeepsing Rajput as legal heirs of deceased Dilip Rajesing Girase vide section 2 of Bombay Regulation Act. The order of issuance of heirship certificate was passed as per the name of applicant no.2 in the cause title of Civil Misc.Application no.74/2017. Hence, no either arith-metical or clerical mistake appears to have been done while passing the order in Civil Misc.Application no.74/2017. Similarly, no accidental slip or omission appears to have been committed while passing the order in Civil Misc.Application no.74/2017. Therefore, the application is devoid of merit vide

section 152 of Code of Civil Procedure. Needless to say, if there was mistake in mentioning the name of applicant no.2 in the cause title of Civil Misc.Application no.74/2017, the applicant had to amend that application vide Order VI, Rule 17 of Code of Civil Procedure in that application. But, the applicants appears to have not done so in Civil Misc.Application no.74/2017. This mistake cannot be corrected vide section 152 of Code of Civil Procedure as prayed by the applicants. Therefore, the application deserves to be rejected. Hence, the order.

ORDER

The application is rejected.

Date: 14.03.2018.

Sd/-
(S.H.Garad)
Civil Judge, J.D., Dondaicha.

Certificate

I certify that the contents of this PDF File are word to word as per Original Judgment/Order.

Name of the Steno: P.D.Sonar,
Name of the Court: Civil Court, J. D. & J.M.F.C. Court,
Dondaicha.
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