

ORDER BELOW EXH. 1 IN CIVIL M.A. No. 1/2018

01. This application is presented by applicant for issuance of heir ship certificate vide section 3 and 7 of Bombay Regulation Act stating them as legal heirs of deceased **Kachrual Bansilal Bajaj**.

02. It is submitted by the applicant that, applicant is wife of deceased Kachrual Bansilal Bajaj. Applicant is permanent residence of Sindkhed, Tq. Ghansawangi, Dist. Jalna. It is stated that deceased Kachrual Bansilal Bajaj has passed away on 25/10/2015 at mouje Sindkhed, Tq. Ghansawangi, Dist. Jalna at his residence. It is further submitted that, applicant has filed this application for seeking heirship certificate for various government and non-government purpose.

The notice of this application was issued in a newspaper having wide circulation within the area in which the husband of applicant was lastly known to have been resided. Besides, notices of this application were issued to the non applicants. Of them non applicant no.1 did not appear, whereas non applicant nos. 2 and 3 combated the application by filing their reply at Exh.12.

According to non applicant nos. 2 and 3, the applicant has filed instant application in order to grab the properties of deceased Kachrual. It is stated that they being father and mother of deceased Kachrual are having rights in the properties of his deceased Kachrual. It is therefore stated that the heir-ship certificate may be issued in favour of applicant as well as themselves.

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04. Perused the record, heard learned counsel for applicants. Following points arise for my determination to which I have recorded my findings with reasons as under.

Points	Findings
1) Whether the applicant is entitled for grant of heir-ship certificate ?	...In the affirmative.
2) What order ?	...As per final order.

REASONS

As to Point Nos. 1 :-

05. To fortify the claim, applicant Shobha has filed affidavit in view of his examination-in-chief at Exh.10 and reiterated the contentions made in the application. She has stated that deceased Kachrual, his husband has died on 25/10/2015 at Aurangabad. However, as to when she approached the concerned officials for getting her name entered to the properties belonging to her husband, the concerned authorities have asked for succession certificate.

06. The non applicants have taken cross-examination of the applicant, in which she has admitted that non applicant nos. 2 and 3 are also the heirs of deceased Kachrual. Besides, she has admitted that the non applicant nos. 2 and 3 are also having rights in the properties of deceased Kachrual. Importantly, she has given no objection for issuance of heir-ship certificate in favour of contesting non applicants along with herself.

07. In addition to ocular evidence, the applicant has placed reliance upon death certificate issued by Grampanchayat about death of her husband and legal heir-ship certificate issued by Grampanchayat Sindkhed, Tq. Ghansawangi. From its perusal, it reveals that applicant's husband has died at Aurangabad on 25/10/2015. She has also relied on proclamation (Exh.7) published in daily Duniyadari newspaper dated 26/01/2018. Applicants chose to close their evidence vide Exh.16.

08. It is to be noted that there being nobody as opponent contentions made by applicants has remained unchallenged and unshattered. Therefore, there is nothing on record to show anything contrary to the application. Death certificate of deceased Kachrual Bansilal Bajaj with the proclamation, supports the averments raised by applicant witness that her husband is no more leaving behind them as their sole legal heirs.

09. It is apparent that none of the person has approached to this court in furtherance to proclamation of instant application. Therefore, I am compelled to hold that, had there been any other heirs having better title than the present applicants, they would have certainly appeared in response to said proclamation published and would have raised objection. However, despite of it published in prevalent daily newspaper with sufficient time, nobody raised such objection till the date. Therefore, assertion made by the applicant on oath that her husband has no legal heirs other than her and applicants nos. 2&3 i. e. Father and Mother of deceased Kachrual, compels me to believe the same as there being nothing on record to combat it.

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10. However, while dealing with such applications, it usually becomes matter of probe that whether there are any other heirs to the deceased having better title than the applicants claiming. In instant application it has been stated by applicant on oath that her deceased husband was having no other legal heirs except the applicants. However, mere her assertions cannot be relied upon. Here it is also necessary to have a look at the documentary evidence filed by the applicants.

11. Considering the documents and the unshattered contentions, there appears merit in the application. Hence, I answer point no. 1 in affirmative and in answer to point no. 2 pass the following order.

Order

1. Application is allowed.
2. Issue heir-ship certificate as per rule in the name of applicant Shobha Kachrulal Bajaj as well as applicant no.2 Bansilal Govindlal Bajaj and mother Shantabai Bansilal Bajaj stating them as legal heirs of deceased **Kachrulal Bansilal Bajaj** who died on 25/10/2015 at Aurangabad, Tq. Ghansawangi, Dist. Jalna.
3. The applicants are directed to furnish full and true inventory of all the property/credits received by them under this certificate within 6 months. A note to that effect be made in the certificate as per provisions contain in Chapter XIV Para 312 of the Civil Manual.

Sd/-

Dt. 25/04/2018

(J. M. Panchal)
Civil Judge, (J.D.)
Ghansawangi

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CERTIFICATE

I affirm that the contents of this PDF file are word to word as per original Judgment.

Name of Stenographer : Amol C. Darewar

Name of Court : Civil Judge (J.D.), Ghansawangi

Date : 25/04/2018

Stenographer (L. G.)