



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
MISCELLANEOUS PETITION (L) NO.24140 OF 2023
IN
MISCELLANEOUS PETITION NO.357 OF 2023

Gitadevi Ramprakash Podar ... Petitioner
Vs.
Pragnesh Narayan Podar and others ... Respondents
Narayan Tejpal Podar ... Deceased

Mr. Rajiv Kumar, Senior Advocate a/w. Ms. Sheetal Kumar, Ms. Priyanka Bhandari and Mr. Sanket Dhawan for Petitioner.

Mr. Zal Andhyarujina, Senior Advocate a/w. Mr. Prerak A. Sharma, Mr. Chaitanya Mehta, Ms. Sonali Agarwal and Ms. Serena M. Jethmalani i/b. Mr. Prerak A. Sharma for Respondent No.1.

Mr. Sharan H. Jagtiani, Senior Advocate i/b. Mr. Rohit P. Mahadik for Respondent No.2.

Mr. Karl Tamboly a/w. Mr. Nihir U. Dedhia i/b. Rohit P. Mahadik for Respondent No.3.

CORAM : MANISH PITALE, J.

DATE : FEBRUARY 12, 2024

ORDER :

. By this petition, the petitioner is seeking revocation of legal heirship certificate granted by order dated 11.07.2023, certifying that respondent Nos.1 to 3 are legal heirs of deceased Narayan Podar. It is the case of the petitioner that the respondents herein, who had filed the petition for grant of legal heirship certificate, suppressed vital information from this Court, thereby obtaining dispensation of proclamation while pursuing their petition for grant of legal heirship certificate.

2. The petitioner claims to be the biological mother of the deceased Narayan Podar. On that basis, she claims to be one of the legal heirs of Narayan Podar and hence entitled to 1/4th share in his estate. The

petitioner refers to and relies upon a suit bearing Suit (L) No.15592 of 2023, wherein she has sought a declaration that the deceased Narayan Podar was her son from her husband Ramprakash Podar. She has denied the alleged adoption of deceased Narayan Podar by Tejpal Podar i.e. the brother of her husband and she has further sought declaration with regard to her 1/4th share in the estate of the deceased Narayan. The petitioner has arrayed the respondents herein as defendant Nos.1 to 3 in the said suit. It is specifically stated that in an interim application moved in the said suit, notices were served upon the respondents on 30.06.2023 and the papers pertaining to the suit as well as the application were also served upon them.

3. It is further stated that the interim application in the aforesaid suit was heard before this Court on 04.07.2023, wherein the respondent Nos.1 and 2 had filed their affidavit in reply and that after hearing the parties, this Court had directed that the other defendants in the said suit would file their reply affidavits. The petitioner asserts that when respondent No.1 pressed for a clarification with respect to an eviction suit filed by him against the petitioner, pending before the Small Causes Court, in the said order dated 04.07.2023, this Court clarified that the pendency of the aforesaid suit filed by the petitioner would not have any effect on any other proceedings pending between the parties and that the pending proceedings shall be decided in accordance with law.

4. It is the case of the petitioner that despite being put to notice in the aforesaid suit and even after having appeared before this Court, the respondents did not take any steps to inform the learned Single Judge of this Court before whom the petition for grant of legal heirship certificate was listed on 11.07.2023. The said facts were suppressed. As a consequence, the learned Single Judge of this Court hearing the said petition was not aware about the claim being raised by the petitioner and

on the basis of consent affidavits filed by respondent Nos.2 and 3 in the said petition for grant of legal heirship certificate filed by the respondent No.1, this Court dispensed with issuance of proclamation and proceeded to allow the petition. According to the petitioner, this amounted to suppression of vital facts from this Court.

5. Apart from this, the petitioner claims that respondent Nos.2 and 3 themselves had filed affidavits in the petition for grant of legal heirship certificate and they had withdrawn their consent, but this fact was not brought to the notice of the learned Single Judge of this Court on 11.07.2023 when the earlier consent affidavits were taken on record, proclamation was dispensed with and the petition was allowed for issuance of legal heirship certificate. According to the petitioner, this amounted to fraud upon the Court, necessitating revocation of the legal heirship certificate.

6. Mr. Rajiv Kumar, learned senior counsel appearing for the petitioner in the present petition referred to and relied upon the pendency of the aforesaid suit filed by the petitioner before this Court and the fact that the respondents were served. It was submitted that the subsequent affidavits filed by respondent Nos.2 and 3 withdrawing their consent in the petition filed by respondent No.1 for grant of legal heirship certificate, was a vital factor suppressed from this Court, thereby indicating that the issuance of legal heirship certificate was not only rendered bad for failure to issue proclamation, but it also stood vitiated on the ground of fraud committed by the respondents upon this Court. The learned senior counsel specifically referred to copies of the two subsequent affidavits filed by respondent Nos.2 and 3 in the petition filed by the respondent No.1 for grant of legal heirship certificate. The copies thereof were obtained by the petitioner from the record of this Court.

7. In support of his contentions, the learned senior counsel relied upon clauses of the Bombay Regulation VIII of 1827 (for short 'Regulation') and he also relied upon the preamble of the said Regulation. He submitted that the whole purpose of the said Regulation was to ensure that all the legal heirs of the deceased were before the Court either as petitioners or as consenting legal heirs for issuance of legal heirship certificate. He referred to clause 1 of the Regulation and also emphasized upon clause 2 thereof, to indicate that the purpose of issuing proclamation was to provide an opportunity to all persons, who could dispute the right of the applicant or petitioner approaching the Court for issuance of legal heirship certificate. He submitted that in the facts of the present case, when the petitioner is specifically asserting her right as the mother of the deceased and all the three respondents were aware about the same, it was incumbent on the respondent No.1 in the petition filed for grant of legal heirship certificate, to have apprised this Court about the same. If the respondent No.1 had indeed brought the said fact to the notice of this Court, the order dispensing with proclamation would not have been passed. In other words, this Court was misled into dispensing with proclamation. Thereupon, the learned senior counsel for the petitioner relied upon clause 4 of the Regulation to contend that if proclamation had been served in the petition, she would have appeared before this Court in order to place all relevant material on record. Upon perusing such material, if this Court reached a conclusion that complicated questions had arisen, the proceeding in the petition for grant of legal heirship certificate could have been suspended, but such an opportunity was not made available due to the absence of proclamation.

8. In order to further demonstrate that the respondents had taken all possible steps to usurp the estate of the deceased Narayan, reference was made to the order dated 06.03.2017 passed in Suit (L) No.120 of 2017.

The said suit was filed by the respondent No.1 for a declaration to be appointed as the lawful guardian of deceased Narayan and manager of his assets wherein respondent Nos.1 and 2 were shown as defendants and the State of Maharashtra was also added as defendant No.3. All the necessary facts were not placed before this Court and such a declaration was obtained on 06.03.2017. On this basis, it was submitted that the respondents had continued to indulge in fraud.

9. The learned senior counsel appearing for the petitioner submitted that since fraud vitiates everything, in the facts of the present case, this Court may allow the present petition, so that the legal heirship certificate issued in favour of the respondent is revoked and the petitioner gets a fair opportunity to place her case before this Court.

10. Mr. Zal Andhyarujina, learned senior counsel appearing for the respondent No.1 submitted that the ground raised on behalf of the petitioner with regard to withdrawal of consent by respondent Nos.2 and 3 in the petition filed by the respondent No.1 for grant of legal heirship certificate, is wholly without any substance and it is not supported by the material available on record. It was submitted that although respondent Nos.2 and 3 had sworn affidavits purporting to withdraw the consent given in the petition filed by the respondent No.1, the internal disputes between respondent Nos.1 to 3 were resolved and this is apparent from the order dated 11.07.2023 passed by this Court allowing the petition for grant of legal heirship certificate. It was brought to the notice of this Court that the respondent No.1 was present in Court, despite being represented by an advocate and she appeared in person as constituted attorney of her daughter Nidhi Narayan Podar i.e. respondent No.3. Having remained personally present in the Court, she consented to the prayer made in the petition and it was in these circumstances that the Court dispensed with issuance of proclamation. There was no question

of this Court having been misled on the said date.

11. As regards the other ground raised by the petitioner that the proclamation ought to have been issued to her, it was submitted that the petitioner in her suit is seeking a declaration that she is the mother of the deceased Narayan and that his adoption by Tejpal Podar is null and void. The learned senior counsel submitted that mere filing of such a suit can be of no consequence and therefore, no case is made out by the petitioner for issuance of proclamation. He relied upon judgement of this Court in the case of *Kusum Chandrakant Shankardas and others Vs. Rajeshri Chandrakant Shankardas*, **2018 (1) Mh.L.J. 681**, to contend that when proclamation is dispensed with by an express order of the Court and such an order is not set aside, no party can claim that the proceedings to obtain legal heirship certificate without a proclamation suffer from any defect in substance. On this basis, it was submitted that since proclamation was dispensed with by an express order of this Court on 11.07.2023, the petitioner cannot challenge the same.

12. The learned senior counsel appearing for respondent No.1 further submitted that a proper reading of the aforesaid Regulation would show that the purpose of issuing proclamation under clause 2 of the Regulation is to give an opportunity to a person to dispute the right of the applicant or the petitioner as legal heir. In the present case, even if the contents of the aforesaid suit filed by the petitioner are to be taken into consideration, she has conceded to the fact that the respondents are legal heirs of the deceased Narayan. Therefore, the petitioner cannot claim that proclamation should have been issued. It was further submitted that in any case, issuance of a legal heirship certificate is for the purpose specified in clause 1 of the Regulation, to facilitate actions to be taken by an heir as per clause 7 of the Regulation and that in any case, such recognition given by the certificate does not bestow any title

in the property on the certificate holder. It was submitted that the petitioner would be entitled to raise her claims in appropriate civil proceedings, which in fact she has already initiated in the form of the aforesaid suit pending before this Court. It was further submitted that this Court did not grant ad-interim reliefs on 04.07.2023 and the clarification given in the said order certainly applied to the petition filed by the respondent No.1 for issuance of legal heirship certificate. Reliance was placed on judgement of the Supreme Court in the case of *Banarsi Dass Vs. Teeku Dutta and another*, (2005) 4 SCC 449 to indicate the true purport of the issuance of legal heirship certificate and in that context, reliance was also placed on judgement of Orissa High Court in the case of *Binod Sahu and another Vs. Smt. Chandrama Sahu*, AIR 2003 Orissa 11. On this basis, it was submitted that the present petition deserved to be dismissed.

13. Mr. Sharan Jagtiani, learned senior counsel appearing for the respondent No.2 submitted that when the petition for issuance of legal heirship certificate was filed by the respondent No.1 in the year 2021, there was no proceeding initiated by the petitioner. The aforesaid suit came to be filed much later in the year 2023, wherein the petitioner herself is seeking a declaration of being the mother of the deceased Narayan. It was submitted that mere filing of the suit during pendency of the petition for grant of legal heirship certificate could not be a ground for claiming that proclamation should have been issued. All the statements made in the petition for grant of legal heirship certificate were true and correct. Respondent Nos.2 and 3 had consented for granting the prayers and therefore, it cannot be said that dispensation of proclamation was obtained by the respondent No.1 in a fraudulent manner. It was submitted that even if it was to be assumed for the sake of argument that the purpose of issuing proclamation under clause 2 of the Regulation was to provide an opportunity to a person who claims

that he / she along with the applicant or petitioner is also a legal heir, as on today, the petitioner has nothing to show that she was the mother of the deceased Narayan. Thus, there was no question of defective dispensation of proclamation in the present case. It was further submitted that the parties in the present case have been engaged in litigation and the petitioner herself has given admissions in judicial proceedings that the deceased Narayan was given away in adoption to Tejpal Podar, thereby completely falsifying the case of the petitioner. On this basis, it was submitted that the petition deserved to be dismissed.

14. Mr. Karl Tamboly, learned counsel appearing for respondent No.3 supported the contentions raised on behalf of respondent Nos.1 and 2. He emphasized on the summary nature of enquiry conducted by a Court in proceedings pertaining to issuance of legal heirship certificate and succession certificate. He relied upon judgement of this Court in the case of *Vaijantabai Devidas Khandare Vs. Janardhan Fakirchand Khandare*, **2007 (6) Mh.L.J. 518** to support his contention that the enquiry being of summary nature, this Court in the petition filed for grant of legal heirship certificate could not have gone into the questions sought to be raised by the petitioner. It was submitted that the proclamation was correctly dispensed with as it is required to be issued when a person can come forward and dispute the right of the applicant / petitioner for issuance of legal heirship certificate. It was submitted that in the facts of the present case, the petitioner cannot raise such a dispute. In fact, in her own suit, she had conceded that all the three respondents are indeed the legal heirs of the deceased Narayan. On this basis, it was submitted that the petition deserved to be dismissed.

15. Heard learned counsel for the parties and perused the material on record. In a revocation petition of this nature, where allegations of suppression and fraud are made against the petitioner, who had filed the

petition for grant of legal heirship certificate, the Court is concerned with maintenance of purity of the legal process and in that context, the Court is called upon to examine whether the grant needs to be revoked. The rival contentions have to be examined in the backdrop of the aforesaid Regulation and circumstances in which issuance of proclamation can be dispensed with. If an order for dispensing with proclamation is obtained by the applicant or petitioner on the basis of suppression of vital facts, the order allowing the petition for grant of legal heirship certificate would certainly stand vitiated. It is a different matter that after issuance of proclamation and upon considering any objection raised by any party, the Court still comes to a conclusion that the legal heirship certificate can be granted to the applicant or petitioner, but that in itself cannot justify dispensation of proclamation.

16. The material on record shows that when the petition for grant of legal heirship certificate was filed in the year 2021, the statements made therein on the basis that Narayan was adopted by Tejpal Podar and therefore, only the respondents before this Court were his surviving legal heirs, cannot be said to be false or incorrect. There is nothing to show that the petitioner had asserted at that stage, when the petition for grant of legal heirship certificate was filed, that she was the mother of the deceased Narayan. She filed the suit much later, in the year 2023. In fact, the material brought to the notice of this Court shows that she made statements in earlier pending judicial proceedings that Narayan was given away in adoption to Tejpal Podar.

17. But, it is an admitted position that the respondents have been arrayed as defendants in the aforesaid suit filed by the petitioner in the year 2023; that they were served with the papers pertaining to the suit and the interim application filed therein; and that they had appeared before this Court when the interim application was taken up for

consideration on 04.07.2023. They opposed the prayers for interim reliefs. The matter was adjourned and a clarification was issued by this Court that the pendency of the said suit would not affect proceedings pending between the parties. At that point in time, the petition filed by the respondent No.1 for grant of legal heirship certificate was pending.

18. It came up for consideration immediately thereafter on 11.07.2023. The question is, while seeking dispensation of proclamation, whether it was incumbent upon the respondent No.1 to bring to the notice of this Court that the aforesaid suit filed by the petitioner was pending, in which the respondents had already appeared. For examining the said question, it would be necessary to refer to clauses of the aforesaid Regulation and the purpose that it serves.

19. A perusal of the preamble of the Regulation shows that it proceeds on the basis that it is desirable that heirs and administrators of deceased persons, unless their right is disputed, are allowed to assume management of property and estate of the deceased, without interference of the Court, but wherever necessary, provisions ought to be made for obtaining certificate of heirship. As per the Regulation, under clause 2, proclamation is to be issued inviting all persons who dispute the right of the applicant or the petitioner to appear in Court and to enter objections. This Court is of the opinion that the contention raised on behalf of the respondents cannot be accepted that such a proclamation is necessary only to facilitate person or persons who dispute the right of the applicant and not for persons who come to the Court and say that while they are not disputing the right of the applicant / petitioner, they are also claiming to be legal heirs. In other words, the respondents contend that so long as the right of the applicant or the petitioner to claim legal heirship certificate cannot be disputed, even if a person claims to be a legal heir in addition to the applicant or the petitioner, proclamation

need not be issued. The respondents indicate that such a person, who also claims to be the legal heir of the deceased, can initiate independent proceeding in the form of an application or petition for appropriate relief.

20. This Court is unable to accept the said contention, for the reason that accepting such a contention would put a narrow interpretation on clause 2 of the Regulation. In proceedings that are initiated for grant of legal heirship certificate, the details of the surviving legal heirs of the deceased are given and when there is no dispute, legal heirs other than the legal heir, who has filed the application / petition, give their consent affidavits and proclamation stands dispensed with. But, when any one of such legal heirs recognized by the applicant or the petitioner does not give consent or a consent affidavit, proclamation is required to be issued. The purpose of issuance of proclamation is to make sure that a person, who wants to dispute the claim of the applicant or petitioner as being the legal heir, can raise objection. Such a person may also come before the Court and state that the applicant cannot be issued the legal heirship certificate in exclusion of other legal heirs, including such a person, who chooses to raise objection. The narrow interpretation sought to be placed by the respondent on clause 2 in the context of issuance of proclamation is anomalous and therefore, it is not accepted.

21. This Court is of the opinion that proclamation can be dispensed with only when all the legal heirs come together and express their consent and willingness for the application of the petitioner to be granted. Wherever there is a situation that any person entitled to claim the status of the legal heir of the deceased is not before the Court as a consenting individual, proclamation has to be issued. This would certainly require that the person can also claim to be a legal heir of the deceased.

22. In this context, the second part of clause 4 of the Regulation also assumes significance. There may be situations where upon issuance of proclamation, a person does come and raise an objection before the Court and a question or issue arises for consideration and decision of the Court. The second part of clause 4 of the Regulation provides that if it appears that such a question or issue between the parties is of a complicated or difficult nature, the judge may suspend proceedings in the application for grant of legal heirship certificate until such question has been tried in a regular suit instituted by one of the parties. This clause of the Regulation also indicates the necessity of issuance of proclamation.

23. In the facts of the present case, it needs to be examined, as to whether the petitioner could claim that even if the respondent No.1 as the son of deceased Narayan may be entitled to maintain the application or petition for grant of legal heirship certificate as one of the heirs of the deceased Narayan, she was entitled to an opportunity to approach the Court to claim that she is also one of the legal heirs of the deceased Narayan, being his mother. This would proceed on an assertion on the part of the petitioner that she is indeed the mother of deceased Narayan.

24. In this context, the contents of the plaint and the nature of prayers sought in the suit filed by the petitioner before this Court assume significance. In the said suit, the petitioner has indeed claimed that she is the mother of deceased Narayan. But, she has specifically claimed that the alleged adoption of Narayan by her brother-in-law Tejpal Podar was illegal. The contents of the plaint and the prayers made therein show that the petitioner herself is seeking a declaration that the deceased Narayan was her son and a further declaration that the alleged adoption of Narayan was illegal, null and void. This indicates that the petitioner herself is seeking a declaration regarding her status as mother of the

deceased Narayan, which is yet to be established in the aforesaid suit pending before this Court. She has conceded to the fact that the respondents would also have share in the estate of the deceased Narayan being the widow and children and on that basis, she is claiming 1/4th share in the estate of the deceased Narayan.

25. It is brought to the notice of this Court that till the aforesaid suit was filed, as recently as in the year 2023, in proceedings pending between the parties, including an eviction proceeding initiated by the respondent No.1 against the petitioner, in judicial proceedings, the petitioner stated on affidavit that the deceased Narayan was given away in adoption to her brother-in-law Tejpal Podar. In this backdrop, the question is whether mere filing the aforesaid suit for declaration would entitle the petitioner to claim that since the respondents were aware about the filing of the suit and they had indeed appeared before the Court, the said facts should have been brought to the notice of this Court in the petition filed for grant of legal heirship certificate and the Court would then have had an opportunity to consider whether proclamation was to be dispensed with.

26. To answer the aforesaid question, the purpose for which proclamation is to be issued under clause 2 of the said Regulation needs to be appreciated. As noted hereinabove, under the said clause, a person may come before the Court and dispute the very right of the petitioner to claim the status of legal heir or objection may be raised to the effect that the petitioner cannot claim to be the only legal heir of the deceased. Such a person could oppose the petition or application to assert that he / she is also an heir of the deceased. In the present case, when the petitioner, at this stage, is herself claiming a declaration that she is the mother of the deceased, it follows that until such assertion is accepted by the competent Court, she cannot claim to be an heir of the deceased.

In other words, the right of the petitioner to claim her status as one of the legal heirs of the deceased, is still inchoate and not crystallized. It is also an admitted position that when the petition for legal heirship certificate was filed by the respondent No.1 in the year 2021, no such suit or proceeding was initiated by the petitioner. Thus, the statement made in the petition for grant of legal heirship certificate regarding legal heirs of the deceased being the respondents herein, was factually correct.

27. After the said petition for grant of legal heirship certificate remained pending for more than two years and it came to the stage of final hearing and disposal, in the year 2023, the petitioner filed the aforesaid suit for declaration of her status as the mother of the deceased. Despite service of the papers pertaining to the said suit and the interim application and even if the respondents appeared before this Court in the said proceedings on 04.07.2023, it cannot be said that when the petition for grant of legal heirship certificate was heard and finally disposed of on 11.07.2023, the respondent No.1 had suppressed relevant facts from this Court. It is an admitted position on record that on 04.07.2023, this Court did not grant any ad-interim relief in favour of the petitioner and a specific observation was made in the said order, which reads as follows:-

“6. It is clarified that pendency of the present proceedings would not have any effect on any other proceedings pending between the parties and such proceedings shall proceed in accordance with law.”

28. An attempt was made on behalf of the petitioner to claim that the said observation was made only in respect of the eviction suit pending between the parties, but the direction quoted hereinabove is widely worded, and therefore, it has to be given its full effect. The aforesaid direction or clarification was given for the reason that the petitioner

herself in the aforesaid suit is claiming a declaration of her status as mother of the respondent No.1 and till such time that the said claim is decided in her favour, there is no question of the petitioner making any claim, including a claim that proclamation should have been issued for her to oppose the grant of legal heirship certificate in pursuance of the petition filed by the respondent No.1.

29. In this context, the learned counsel appearing for the respondents are justified in relying upon the position of law that legal heirship certificate would not decide title to property. This is evident from clause 7 of the Regulation itself, which sufficiently clarifies that such a certificate does not confer any right to the property, but it only indicates the person, who for the time being, is in the legal management of the property. Therefore, it cannot be said that this Court could not have dispensed with proclamation while passing the order dated 11.07.2023. At the same time, reliance placed on judgment of this Court in the case of **Kusum Chandrakant Shankardas and others Vs. Rajeshri Chandrakant Shankardas** (*supra*) on behalf of the respondents is not justified for the broad proposition advanced on their behalf. By relying upon the said judgement, the respondents have claimed that so long as the order of the Court dispensing with proclamation stands and it is not set aside, no party can claim that the proceedings to obtain heirship certificate without a proclamation suffer from any defect in substance. The respondents fail to realize that in a case where dispensation of proclamation is obtained by fraud, nothing would prevent the Court from revoking the grant of legal heirship certificate, notwithstanding the fact that the order dispensing with proclamation has not been set aside. Fraud vitiates everything and therefore, such a broad proposition canvassed on behalf of the respondents cannot be accepted.

30. Nonetheless, since this Court, in the facts of the present case,

finds that, failure on the part of the respondent No.1 to apprise this Court on 11.07.2023, about pendency of the aforesaid suit filed by the petitioner cannot amount to suppression or fraud, it cannot be said that proclamation was wrongly dispensed with by this Court. If the contentions raised on behalf of the petitioner are to be accepted, any stranger could file a suit claiming declaration with regard to some relation with the deceased and then seek revocation of grant of legal heirship certificate on the basis that proclamation ought to have been issued, merely because the suit was filed and it was pending. In this context, the respondents are justified in relying upon judgements in the case of *Aloysius Manuel D'souza and others Vs. Mary Kamala William Manuel D'souza and others*, **2006 SCC OnLine Bom 821** and **Binod Sahu and another Vs. Smt. Chandrama Sahu** (*supra*). Hence, the said ground for seeking revocation is rejected.

31. The only other ground for seeking revocation pertains to the alleged suppression on the part of the respondent No.1 regarding affidavits filed by respondent Nos.2 and 3 in the said petition for grant of legal heirship certificate, whereby they had withdrawn their consent affidavits filed in the petition. At first blush, this Court was impressed with the contention raised on behalf of the petitioner, since it appeared that withdrawal of consent by respondent Nos.2 and 3 went to the very root of the matter, also indicating that the proclamation could not have been dispensed with. But, a careful perusal of the order dated 11.07.2023, passed in the petition for grant of legal heirship certificate, shows that the respondent No.2 was represented by an advocate on the said date and that she was herself present in person in the Court, not only regarding her own interest but also as a constituted attorney of the respondent No.3. Upon remaining personally present in Court and upon giving instructions to an advocate who was also present in the Court, respondent Nos.2 and 3 communicated their express consent to this

Court when the order dated 11.07.2023 was passed. This indicates that although there may have been some misgivings and disputes between the respondent No.1 as the original petitioner in the said petition and respondent Nos.2 and 3, but when the petition was taken up for hearing and disposal, respondent Nos.2 and 3 did express their consent. Accordingly, this Court directed the department to issue legal heirship certificate while disposing of the petition. Thus, there is no substance in this ground also, while seeking revocation of the grant of the legal heirship certificate.

32. Even if the preamble and all the clauses of the said Regulation are taken into consideration, upon which the learned senior counsel appearing for the petitioner placed reliance, this Court finds that in the facts of the present case, the petitioner has not been able to make out her case for revocation of the grant. As noted hereinabove and in terms of the settled position of law, issuance of the legal heirship certificate has only conferred the right on the respondents to be in legal management of the property of the deceased and the rights of any third person, including the petitioner, are not finally determined or adversely affected, as is clarified in the second limb of Clause 7 of the Regulation. This Court is not commenting upon the effect of the alleged admissions given in judicial proceedings by the petitioner regarding the deceased being given in adoption to Tejpal Podar i.e. the brother-in-law of the petitioner. The said aspect is obviously the subject matter of the aforesaid suit filed by the petitioner for declaration. It would not be appropriate to comment either way on the said aspect of the matter in these proceedings.

33. In view of the above, this Court is not inclined to grant any favourable order in the present petition.

34. Accordingly, the petition is dismissed.

35. At this stage, the learned counsel appearing for the petitioner in

this petition seeking revocation of legal heirship certificate, sought stay of this order.

38. The prayer for stay is opposed by the respondents in the revocation petition.

39. In this order, this Court has given detailed reasons as to why the prayer for revocation cannot be granted. There is no ground made out for grant of stay. Therefore, the prayer is rejected.

40. Needless to say, now there is no impediment for the department to issue the legal heirship certificate.

(MANISH PITALE, J.)

Minal Parab