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1475-179-3

Hindu Succession Act, 1956:

Heirship entries to be made under the -

GOVERNMENT OF MAHARASHTRA.  
Revenue and Forests Department.  
Resolution No. RTS-4364/192696-M.  
Sachivalaya, Bombay-32, 19th November 1965.

- READ:-
- i) Government Circular, Revenue Department, <sup>No.</sup> RTS-4356/80424-M, dated 30th September 1957.
  - ii) Letter No. LND-Kolh-0/372, dated the 19th November 1964, from the Commissioner, Poona Division, Poona.
  - iii) An extract from the letter No. L&R: 847, dated the 31st May 1965 of the Settlement Commissioner and Director of Land Records, Poona, which is reproduced below.

"Points No. I and IV: After coming into force of the Hindu Succession Act, 1956, Government under their circular No. RTS-4356/80424-M, dated 30th September, 1957, had issued detailed instructions as to how the entries in the Record of Rights should be made by the village officer. Similarly instructions as to how they should be finalized by the inspecting Revenue Officers were also issued in that Circular and copies of the Marathi Circular were sent to all the Collectors direct by Government. Although the instructions contained in the English and Marathi Circulars are apparently similar, a close scrutiny of sub-paragraph 2 of these Circulars shows that, they do not carry the same meaning. In the English Circular it has been mentioned that, if the heirs of the deceased Khatedar are living separately the names of the heirs should be entered according to their respective possessions while in the Marathi Circular it has been mentioned that, the names of co-sharers should be entered according to their respective shares. Further according to the instructions in the said circular the names of heirs who succeed the deceased khatedar under the provisions of Hindu Succession Act, 1956 have to be entered in the Heirship register. The form of the Heirship register given on page 74 of the Revenue Accounts Manual provides no column for entering the names of **all** heirs whether they are in actual possession or not of the suit property left by the deceased. Column No. 5 of the said register makes provision for the entry of the names of the successors in possession only. Thus the names of the co-sharers who are not in actual possession of the suit property would not appear in the said register for want of any column for the entry of such persons. The main intention of this Act is that all the legal heirs of the deceased should have an equal share in the property irrespective of their possessions. So it appears necessary to modify the existing form of heirship register. So as to suit the proper implementation of the Hindu Succession Act, 1956 providing a separate column for showing the names of the persons who are the successors of the deceased according to the provisions of the Hindu Succession Act, 1956. Necessary draft correction slip to the Revenue Accounts Manual modifying the existing form of heirship register on page 74 is submitted herewith for favour of approval and issue.

RTS  
JAN 1966

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As regards the issue regarding entering the names of the persons who are the legal heirs to the deceased according to the provisions of the Hindu Succession Act, 1956 but who are not in actual possession of the suite property, it would be proper to enter the names of such heirs who are not in actual possession, in the other rights column of the Record of Rights, in order to show their rights

and interests to the property. Because in the absence of such entry of their names in the other rights columns in the Record of Rights the person who would enter into any transactions in respect of such lands would not ordinarily be in the know about the interests of such persons in the said land. The absence of such entry in the other rights column would also lead to an irregularity of not issuing a notice to the interested persons as required by Section 135-D of the Bombay Land Revenue Code, 1879 by the Village Officers before certifying the entries and create unnecessary complications and even civil litigations. Besides the entry of the names of such persons without possession of the property in the other rights column of the Record of Rights is also in keeping with the principles of the Record of Rights law which are supported by the instructions on page 75 of the Revenue Accounts Manual. The instructions contained in the English Circular do not speak about entering the names of the legal heirs not in actual possession of the property in the other rights column. Government may, ~~therefore~~ therefore, be moved to issue necessary corrigenda to the Circular, dated 30th September 1957 under reference and issue clear instructions to enter the names of all the legal heirs not in actual possession of the property in the other rights column of the Record of the Rights in order to bring the circular in keeping with the instructions contained in the Revenue Accounts Manual".

**RESOLUTION:-** Government is pleased to direct that for the existing paragraph 2 of the Government Circular, Revenue Department, No.RTS-4356/80424-M, dated 30th September 1957, the following shall be substituted:-

"2. When a Khatedar dies after the commencement of the Hindu Succession Act, 1956 the facts stated above should be taken into consideration for finding out his legal heirs (who would succeed to his property) and then orders as regards the succession should be passed as stated in paragraphs 4 and 5 on page 75 of the Revenue Accounts Manual.

When a Khatedar dies, the names of all those heirs who will succeed to the property of the deceased Khatedar (under the provisions of the Hindu Succession Act) will have to be entered in the Heirship Register. If the distribution of land to the respective heirs has not been made, the name of only one heir should be entered as at present as the head (Karta) of the family in the village form No.VII-XII. If the landed property is partitioned amongst all the heirs, the names of all such heirs should be entered as Kabjedars according to their respective possession. However, if the landed property is partitioned amongst only some of the heirs, the names of all such heirs should be entered according to their respective possession and names of the remaining heirs of the deceased Khatedar (who are not in possession of the land but who never the less hold a right in the property) should be entered in the other rights' column of the Records of Rights in order to show their right and interest in the property. Nothing contained in the Hindu Succession Act, 1956 in any way affects the provisions of the Act to prevent fragmentation and consolidation of the land holdings or of the Tenancy Act."

2. Government is also pleased to direct that, form appended to this Government Resolution should be substituted in place of the existing form of Heirship register appearing on page 74 of the Revenue Accounts Manual (paragraph 35).

3. The Settlement Commissioner and Director of Land Records, should issue necessary correction slip to the Revenue Accounts Manual.

By order and in the name of the Governor of Maharashtra,

J.G. KARANDIKAR,

Assistant Secretary to Government.

To

The Commissioners of Divisions,  
The Settlement Commissioner and Director of Land Records, Poona,  
All Collectors,  
All Prant Officers in Bombay and Poona Divisions,  
The Sub-Divisional Officers, in Nagpur Division,  
All District Collectors in Aurangabad Division,  
All District Collectors, in Solapur/Satara Division,  
The Joint Reform Implementation Officer,  
The Joint District Level Implementation Officer,

FORM OF HEIRSHIP REGISTER

H-1091 (1400).

Sr. No.	Name of the deceased kabjedar or right holder	Date or approximate date of death	Old khata No. in V.F.VIII or items in Col. No. 8 of Taluka Form VII	Names of the legal heirs	Names of the heirs out of Col.5 in actual possession	Order of M. as to who should be entered as occupants and/or in the other rights column	Entry in Village Form VI embodying the decisions.
1	2	3	4	5	6	7	8