DECREE IN ORIGINAL SUIT

IN THE COURT OF THE II JUNIOR CIVIL JUDGE. CITY CIVIL COURT. HYDERABAD.
DATED THIS THE **29th day of July, 2016**

Present: Smt. G.Sunitha Ravindra Reddy,B.Sc.,L.L.B.,
III JUNIOR CIVIL JUDGE,
FAC II JUNIOR CIVIL JUDGE,
CITY CIVIL COURT,HYDERABAD.

O.S.No.728 of 2016

BETWEEN:-

1. Soham Modi, S/o. Late Sri Satish Modi,
   Aged 45 years.

2. Sourabh Modi, S/o. Late Sri Satish Modi,
   Aged 43 years.
   Both are R/o. Plot No. 280,
   Road No. 25, Near Peddamma Temple, Jubliee Hills,
   Hyderabad – 500 034. ....Plaintiffs

And

1. The Tahasildar,
   Shaikpet Mandal, Hyderabad District.

2. All Concerned. ...Defendants

Claim: Suit for declaration of Plaintiffs as Legal Hers of Late Sri Satish Modi.

Valuation:-Suit is valued for Rs.10,000 /- and a Court Fee of Rs.786/- is paid Under sec.20 of APCF and SV Act, 1956.

Cause of Action :- **Arose on 20.1.2016**
Plaint presented on :- **09.03.2016**
Plaint numbered on :- **21.03.2016**

This suit is coming on this day before me for final disposal in the presence of **Sri C. Bala Gopal,** advocate for the plaintiffs and defendants were called absent and set exparte, this court doth order and decree as follows:-

1 That the suit of plaintiff be and the same is hereby decreed.

2 That the plaintiffs are legal heirs of Late Sri Satish Modi, in view of facts and circumstances of the case.

3 There is no order as to costs.

Given under my hand and the seal of the court on this 29th day of July, 2016.

III JUNIOR CIVIL JUDGE,
FAC II JUNIOR CIVIL JUDGE,
CITY CIVIL COURT, HYDERABAD.

CERTIFIED PHOTOCOPY

MEMO OF COSTS

	FOR PLAINTIFF	FOR DEFENDANTS
1.Stamp on plaint	Rs 786-00	—
2.Stamp on vakalat	2-00	Exparte
3.Advocate fee	PC/MC not filed	—
4.Process fee	100-00	—
5.Misc. Fee	50-00	—
6.Publication	—	—
Total Rs.	938-00	—

III JUNIOR CIVIL JUDGE,
FAC II JUNIOR CIVIL JUDGE,
CITY CIVIL COURT, HYDERABAD.

NOTE:-"The parties should apply as soon as possible for the return of all exhibits which they may wish to preserve, as the record will be liable to be destroyed after three years from this date".

[redacted]

COURT OF THE CHIEF JUDGE
CITY CIVIL COURT HYDERABAD
CENTRAL COPYING AGENCY

Typing 15/4/8/16
Typing 1-8-16
Typing 10-8-16
Stamps
Charges 12-8-16
Charges Sum of Rs. 12/-
Deposited D/R No. 12497
Addl. Stamps Called for
Addl. Stamps deposited on
Copy made ready on 12-8-16
Copy Delivered on 12-8-16

SUPERINTENDENT
Central Copying Establishment
City Civil Court Hyderabad
12/8/16

IN THE COURT OF THE II JUNIOR CIVIL JUDGE : CITY CIVIL COURT : HYDERABAD.

FRIDAY, THE 29 TH DAY OF JULY, 2016

PRESENT : SMT. G. SUNITHA RAVINDRA REDDY, B.Sc., LL.B.,
III JUNIOR CIVIL JUDGE
FAC II JUNIOR CIVIL JUDGE

O.S. No. 728 of 2016

Between :

1 Soham Modi, S/o. Late Sri Satish Modi, aged about 45 yrs

2 Sourab Modi, S/o Late Sri Satish Modi, aged about 43 yrs

All are residing R/o. Plot No. 280, Rd.No. 25, Near Peddamma Temple, Jubilee Hills, Hyderabad 500 034.

Plaintiffs

AND

1 The Tahasildar, Shaikpet Mandal, Hyderabad District.

2 All concerned

Defendants

This suit coming on 22.07.2016 for final hearing before me, and upon hearing the arguments of Sri. C. Balagopal, the learned counsel for the plaintiffs, defendant nos. 1 and 2 called absent and were set exparte. The matter having stood over till this day for consideration, this Court delivered the following :

JUDGMENT

This suit is filed for Declaration to declare the Plaintiffs as the only legal heirs of Late Sri Satish Modi.

2. The brief averments made in the Plaint are as follows:

It is the case of the Plaintiffs, that the father of Plaintiffs namely Late Sri Satish Modi died intestate on 20.01.2016 leaving behind the Plaintiff nos. 1 and 2 as his legal heirs.

After the death of Late Sri Satish Modi, the Plaintiffs approached the Tahasildar, Shaikpet Mandal, Hyderabad and applied for issuance of Legal Heir Certificate, but the same was refused by the Defendant no. 1 office and directed the Plaintiffs to approach the concerned Civil Court for issuance of the same. Hence, this suit.

3. On receipt of summons, the defendants remained exparte.

4. During the course of Enquiry, on behalf of Plaintiffs, Plaintiff no. 1 was examined as PW1 and Ex. A1 and A2 were marked.

5. Heard learned counsel for Plaintiffs.

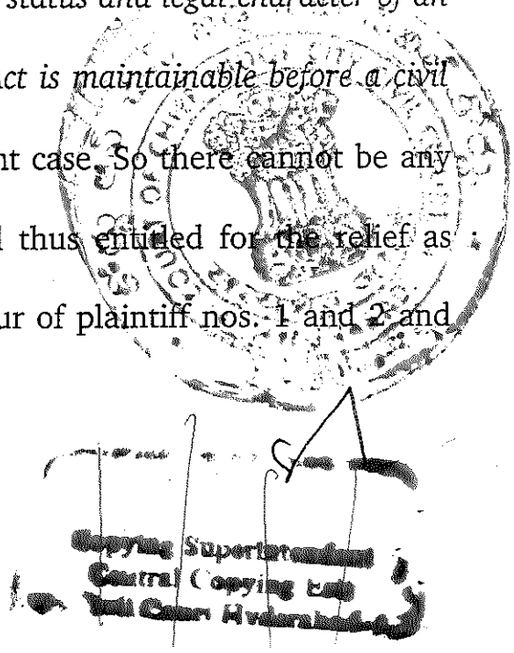
6. Now the point for determination is whether the Plaintiffs are entitled for declaration as prayed for ?

The plaintiffs filed this suit to declare them as legal heirs of Late Sri Satish Modi. In order to substantiate their case, the plaintiffs placed reliance on oral testimony of PW 1 coupled with Exs. A-1 and A-2 documents. Ex.A-1 is the original death certificate of deceased Late Sri. Satish Modi. Ex.A-2 are the Aadhar cards of plaintiff Nos.1 and 2 showing the name of deceased Sri Satish Modi as their father.

7. Before adverting to the facts of the case, it is deemed fit to refer to the relevant provisions of Section 34 of Specific Relief Act 1963. Under Section 34 of Specific Relief Act, 1963 *"Any person entitled to any legal character, or to any right as to any property, may institute a suit against any person denying, or interested to deny his title to such character or right, and the court may in its discretion make therein a declaration that he is so entitled, and the plaintiff need not in such suit ask for any further relief.*

Provided that no court shall make any such declaration where the plaintiff, being able to seek further relief than a mere declaration of title, omits to do so.

8. On careful perusal of entire record, the evidence of PW1 coupled with Exs. A-1 and A-2 documents categorically establishes that the plaintiffs are the legal heirs of Late Sri Satish Modi. In order to rebut the said version, the defendants are reluctant to contest the suit inspite of knowledge of suit proceedings. So it can be safely presumed that the plaintiffs could successfully probabilise their case and the decision in *Bharat Petroleum Corporation Limited, Anna Nagar, Chennai and another Vs. Srinivasa Transport, Gajuwaka, Visakhapatnam in 2008 (4) ALD 787 wherein it was held that "a suit for declaration to decide the question pertaining to the status and legal character of an individual under Section 34 of the Specific Relief Act is maintainable before a civil court" is* well applicable to the facts of the present case. So there cannot be any iota of doubt to suspect th documents filed and thus entitled for the relief as prayed for. Thus, this point is answered in favour of plaintiff nos. 1 and 2 and against the defendants.



In the result, the suit of the plaintiffs is hereby decreed against defendants declaring the plaintiffs as legal heirs of Late Sri Satish Modi. In view of facts and circumstances of the case, there is no order as to costs.

Dictated to Personal Assistant directly in the laptop, corrected and pronounced by me in the open Court, on this 29 th day of July, 2016.

III JUNIOR CIVIL JUDGE
FAC II JUNIOR CIVIL JUDGE
CITY CIVIL COURT, HYDERABAD

APPENDIX OF EVIDENCE

WITNESSES EXAMINED FOR PLAINTIFFS :
P.W.1 : Soham Modi

WITNESSES EXAMINED FOR DEFENDANTS :
None

DOCUMENTS MARKED FOR PLAINTIFFS :

Ex.A-1 : Original Death Certificate of Late Sri Sathish Modi.
Ex.A-2 : Aadhar Cards of Plaintiffs no. 1 and 2.

DOCUMENTS MARKED FOR DEFENDANTS :
Nil

III JUNIOR CIVIL JUDGE
FAC II JUNIOR CIVIL JUDGE,
CITY CIVIL COURT, HYDERABAD.

C.Y. Chandramouli