



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 3691 OF 2025

1. Aananda Natthu Patil (Deceased)
Through L.Rs.
- 1-a. Kamalbai Ananda Deore (Deceased)
- 1-b. Sanjay Ananda Deore
Age: -47yrs, Occ.: - Agriculture
- 1-c. Vijay Ananda Deore (Deceased)
Through L.Rs.
- 1-c-1. Manisha Vijay Deore (Patil)
Age: -Major, Occ.: - Household
- 1-c-2. Satish Vijay Deore (Patil)
Age: -Major, Occ.: Agriculture
- 1-c-3. Vaishali Vishal Pawar
Age: -Major, Occ.: - Household
- 1-d. Ratnabai Ranjit Patil
Age: -44yrs, Occ.: - Household
- 1-e. Jyotibai Ravindra Patil
Age: -44yrs, Occ.: - Household

All R/o. Chittegaon, Tal. Chalisgaon,
Dist. Jalgaon

... PETITIONERS

VERSUS

1. State of Maharashtra
Through Collector, Jalgaon
2. Special Land Acquisition Officer (I)
Upper Tapi Project, Hatnur, Jalgaon
3. Executive Engineer,
Laghu Patbandhare Department, Jalgaon

4. Bhimabai Baban Patil
Since Deceased through L.Rs.
 - 4.a. Sopan Navalsingh (Baban) Patil
Age: 57 years, Occupation: Agriculture,
R/o. Sambre Chawl, Shivajinagar Wada,
Palghar, Tal. & Dist. Palghar
 5. Daulat Lala Patil
Since Deceased through L.Rs.
 - 5.a. Dilipkumar Daulat Rajput (Patil)
Age: -60yrs, Occ.: - Business
R/o. Ward no.20, Power House Colony,
Loni Burhanpur, Tal. & Dist. Burhanpur,
Madhya Pradesh
 6. Natthu Mansingh Patil
Since Deceased through L.Rs.
 - 6.a. Dharma Natthu Patil
Age : 83yrs, Occ.: - Agriculture
R/o. Pimpri Bk., Ganeshpur,
Tal. Chalisgaon & Dist. Jalgaon
- ... RESPONDENTS**

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Mr. Niranjan V. Dhake – Advocate for Petitioners
Ms. Vaishali S. Chaudhary – AGP for Respondent(s)/State

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CORAM : MANJUSHA DESHPANDE, J.
RESERVED ON : 12.08.2026
PRONOUNCED ON : 21.08.2026

J U D G M E N T :

1. Rule. Rule made returnable forthwith. By consent of the parties, the petition is heard finally.
2. The petitioners are challenging the order passed by the learned 3rd Joint Civil Judge, Senior Division, Jalgaon, in Regular Darkhast No.175 of

2020, whereby the application below Exhibit 52 filed by the petitioners came to be rejected. By the said application, the petitioners sought deletion of the names of deceased persons and unnecessary applicants from the execution proceedings, on the ground that they had already relinquished their rights in favour of the present petitioners and, therefore, had no subsisting interest in the execution proceedings.

3. Learned Counsel for the petitioners submits that Ananda Natthu Patil and respondent No.4 – Bhimabai Baban Patil are siblings and successors of Natthu Mansingh Patil. Respondent No.5 – Daulat Lala Patil was the cousin son-in-law of Natthu Mansingh Patil and land bearing Gat No.167/A was mortgaged in his favour. The said mortgage was redeemed and a registered deed to that effect was executed by respondent No.5 on 08.12.2005. Thus, Natthu Mansingh Patil was the original ancestor, owner and possessor of land bearing Gat Nos.167/A and 167/B, situated at Pimpri Bk. Pra. Cha., Taluka Chalisgaon, District Jalgaon. The said land was acquired by the Special Land Acquisition Officer by order dated 03.11.2017.

4. The award came to be passed in the name of Ananda Natthu Patil and respondent Nos.4 to 6 in L.A.R. No.519 of 2009 on 03.11.2017, in respect of gat No.167/A. Ananda Natthu Patil died during the pendency of L.A.R. No.519 of 2009. The legal representatives of Ananda Natthu Patil were brought on record. The petitioners, along with respondent

Nos.4 to 6 were accordingly shown as applicants in Regular Darkhast No.175 of 2020, pending before the Civil Judge, Senior Division, Jalgaon. It is submitted that Ananda Natthu Patil died during the pendency of L.A.R. No.519 of 2009 and subsequently, his legal representatives were brought on record at the time of filing of the execution proceedings. Respondent Nos.4 to 6 were also added as applicants in the execution proceedings as their names appeared in the award.

5. The original owner, Natthu Mansingh Patil, who was holding land bearing Gat No.167/A died on 01.11.1987. After his death, the names of Ananda Natthu Patil and Dharma Natthu Patil were entered in the record of rights as possessors, whereas the name of Bhimabai Naval Patil was entered in the other rights column. The said mutation entry was never subjected to challenge and has remained unchallenged for more than thirty years. Land bearing Gat No.167/A was recorded in the name of Ananda Natthu Patil, whereas Gat No.167/B was recorded in the name of Dharma Natthu Patil. Ananda Natthu Patil relinquished his rights in Gat No.167/B in favour of Dharma Natthu Patil and Dharma Natthu Patil, in turn, relinquished his rights in Gat No.167/A in favour of Ananda Natthu Patil. Accordingly, mutation entries bearing Nos.330 and 331 came to be recorded on 04.12.1989.

6. It is further submitted that, although the loan secured by the mortgage in favour of respondent No.5 – Daulat Lala Patil had been

repaid, his name continued to appear in the other rights column in respect of Gat No.167/A. In order to remove the said ambiguity, respondent Nos.4 and 5 executed a registered relinquishment deed relinquishing of their respective rights in favour of Ananda Natthu Patil in respect of Gat No.167/A and in favour of Dharma Natthu Patil in respect of Gat No.167/B. The said deed was registered before the Joint Sub-Registrar, Class-II, Chalisgaon, on 08.12.2005 as Document No.6766 of 2005.

7. However, due to an inadvertent mistake in the said deed dated 08.12.2005, Gat No.167/A was mentioned as Gat No.167/B, though the boundaries and the names of the owners remained the same. Thus, a discrepancy crept up with regard to the Gat numbers, in the registered relinquishment deed dated 08.12.2005. Mutation Entry No.707 was taken on revenue records on the basis of deed dated 08.12.2005. It is submitted that in the relinquishment deed two properties are rightly mentioned and their description with the boundaries and area is also appropriately given. However, while referring the gat numbers of both the properties, inadvertently gat No.167/B is mentioned in respect of both the properties.

8. On realisation of mistake, it was corrected by executing notarized relinquishment deed in respect of gat No.167/B in favour of Ananda Natthu Patil on 17.03.2009, and accordingly Mutation Entry No.835 is

recorded on 13.04.2009. This Mutation Entry No.835 is not challenged till date. Thus, respondent Nos.4 to 6 have no right, title or interest in the gat No.167/A. Due to failure of Advocate for the petitioners to take timely steps names of respondent Nos.4 to 6 appeared in award passed in L.A.R. No.519 of 2007.

9. Against the aforesaid background, the petitioners filed an application before the Executing Court seeking deletion of the names of respondent Nos.4 to 6 from the execution proceedings. It was specifically stated in the application that respondent Nos.4 and 5 had already relinquished their rights in favour of deceased Ananda Natthu Patil on 08.12.2005 in respect of Gat Nos.167/A and 167/B. Though there was a discrepancy in the Gat numbers mentioned in the relinquishment deed, the same was sought to be explained by an affidavit filed before the Tahsildar on 04.02.2009, stating that the discrepancy was the result of an inadvertent mistake in the relinquishment deed.

10. It is submitted that applicant No.2 – Bhimabai Navalsingh Patil died during the pendency of the proceedings on 22.02.2022, and respondent No.3 – Daulat Lala Patil died on 17.01.2019. The rights in the acquired land were already relinquished in favour of applicant No.1 pursuant to Mutation Entries Nos.707 and 835. The son of applicant No.3, Dilipkumar Daulat Rajput (Patil), also submitted an affidavit stating that applicant No.3 had relinquished his rights in favour of applicant

No.1.

11. From the aforesaid facts, it is evident that applicant No.4 – Natthu Mansingh Patil was the father of applicant Nos.1 and 2 and the father-in-law of applicant No.3. Natthu Patil died on 01.11.1987. The property bearing Gat Nos.167/A and 167/B devolved upon applicant Nos.1 and 2 and Dharma Natthu Patil by inheritance. Despite the relinquishment deeds executed by the concerned interested parties i.e. applicant Nos.2 and 3, their names came to be included in the execution proceedings inadvertently. Applicant No.4 had also died before the award came to be passed in the L.A.R. Nevertheless, his name was inadvertently shown in the execution proceedings. It is submitted that the names of applicant Nos.2, 3 and 4 have already been deleted from the L.A.R. in respect of Gat No.167/B.

12. Thus, the petitioners filed the application seeking deletion of applicant Nos.2 to 4 from the execution proceedings, supported by the relinquishment deeds executed by applicant Nos.2 and 3 and affidavits of their legal representatives. However, the learned 3rd Joint Civil Judge, Senior Division, Jalgaon, rejected the said application on the ground that a similar application at Exhibit 42 had already been rejected on 18.07.2024 and that the subsequent application had been filed without disclosing the earlier application. The learned Judge held that, once the relief had been rejected, the same relief could not be granted in the same

proceedings by invoking Section 151 of the C.P.C. and, accordingly, rejected the application for want of bona fides.

13. On perusal of the earlier application at Exhibit 42 and the order passed thereon, it appears that there were certain discrepancies with regard to the middle name of Bhimabai Navalsingh Patil and no clarification had been furnished in that regard. The death certificate of Natthu Mansingh Patil was not produced.

14. Another objection was with regard to the relinquishment deeds executed by applicant Nos.2 and 3. These deeds were required to be registered under Section 17(1)(b) of the Registration Act, which were not duly registered and were merely notarized, the same could not be taken into consideration while granting the relief sought by the petitioners. Consequently, the earlier application came to be rejected by order dated 18.07.2024 holding that on account of ambiguity in the application, the prayer of the applicants cannot be granted.

15. The earlier application has been filed for deletion of applicant Nos.2 to 4, which has been rejected by recording a finding that, there are ambiguities in the application, therefore the prayers cannot be considered. The application has not been rejected by holding that they are necessary parties and their continuation as applicants is necessary in the execution application. The application has not been decided on

merits. Thus, the subsequent application filed by removing the ambiguities is maintainable. Hence, the subsequent application would not be barred.

16. The application at Exhibit 52 is filed invoking Order I Rule 10(2) read with Section 151 of the C.P.C., removing the ambiguities as observed in the order on application at Exhibit 42. It is also needs to be appreciated that, the application is filed to delete the names of co-applicants who have relinquished their rights in favour of applicant No.1 prior to their death. It is supported by the affidavits of the legal representatives of applicant Nos.2 to 4, filed before the Court of Civil Judge, Senior Division, Jalgaon in Regular Darkhast No. 175 of 2020 stating that their deceased ancestors i.e. applicant Nos.2, 3 and 4 had relinquished their rights in respect of property i.e. gat No.167/A and they have no surviving rights in it. Similar affidavits have been filed before this Court. Thus, the legal representatives of the applicants whose deletion is sought to have been given their consent for deleting their names from the execution proceedings. As such, as on today there remains no ambiguity, with regards to the merit of application at Exhibit 52.

17. In the present Writ Petition also affidavits have been filed on behalf of respondent Nos.4.a, 5.a and 6.a, representing the legal representatives of applicant Nos.2 to 4. They have categorically stated that they have no objection to deletion of the names of their respective ancestors from

Regular Darkhast No.175 of 2020 pending before the Civil Judge, Senior Division, Jalgaon.

18. Order I Rule 10 of the C.P.C. empowers the Court, at any stage of the proceedings, without an application of either parties to strike out the name of any person who has been improperly joined and to add the name of any person whose presence before the Court may be necessary for effectively and completely adjudicating upon and settling the questions involved in the proceedings. Similarly, Order XXI Rule 101 of the C.P.C. contemplates adjudication of questions arising in execution proceedings concerning the rights of the parties in relation to the subject matter of execution.

19. When we read the two provisions cohesively the aforesaid provisions enables the Court to entertain the application filed by the petitioners to be considered on its own merits. The parties whose names are sought to be deleted have already executed registered relinquishment deeds and their legal representatives have also filed affidavits before this Court as well as before the Executing Court categorically stating that they have no claim or interest in the subject property. They have also stated that their predecessors had already relinquished their respective rights.

20. In the facts and circumstances of the case, therefore, it would be just and proper to set aside the impugned order and allow the writ

petition.

21. Rule is made absolute in terms of prayer clauses 'B' and 'C'.

22. Pending Civil Applications, if any, also stand disposed of.

[MANJUSHA DESHPANDE, J.]

Pooja Kale/