

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

FIRST APPEAL (ST) NO.18998 OF 2014

Pandurang S/o Tukaram Tarar (dead) by L.Rs. Suresh S/o Pandurang Tarar & Ors.

-vs-

The State of Maharashtra represented by the Collector, Amravati & Ors.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Shri K. N. Dadhe, Advocate for appellants.
Smt. M. N. Hiwase, AGP for respondent Nos.1 and 2.
Shri S. G. Jagtap, Advocate for respondent No.3.

CORAM : A.S.CHANDURKAR, J.

DATE : MARCH 19, 2015

Admit.

Issue notice to the respondents. Learned AGP waives notice on behalf of respondent Nos.1 and 2 and Shri S. G. Jagtap waives notice on behalf of respondent No.3.

This appeal takes exception to the judgment dated 21/11/2012 passed by the Reference Court partly allowing the same in favour of the original claimant. It is not necessary to consider the merits of challenges in view of the fact that the original claimant expired on 24/09/2012 which is before final adjudication of the reference proceedings. It is therefore clear that the Reference came to be partly allowed in favour of the deceased claimant. Hence said order is nullity in the eyes of law having been passed in favour of a dead person.

In view of aforesaid, the following order is passed:

- (i) The judgment dated 21/11/2012 passed in L.A.C. No.268 of 2003 is set aside as it has been passed in favour of a dead person.
- (ii) The proceedings are remitted to the Reference Court for fresh adjudication in accordance with law with liberty to present applicants to seek their impleadment as legal heirs of the original claimant.
- (iii) Objection on behalf of the respondents as regards grant of interest for the period from 21/11/2012 till the date of fresh adjudication is kept open for being considered by the Reference Court.
- (iv) Appeal stands disposed of in aforesaid terms with no order as to costs.

JUDGE