

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 5281 OF 2016

Anand Ganpat Padole
Age: 65 years, Occ. Business,
R/o Juna Mangalwar Basar,
Ahmednagar, Tq.& Dist. Ahmednagar. ... Petitioner

Vs.

1. Narsee Premji Patel
Age: 64 years, Occ. Business,
R/o Tilak Road, Opp. Wadia Park,
Ahmednagar, Tq. & Dist. Ahmednagar.
2. Mrs. Yeshoda Maganlal Patel,
Age: 66 years, Occ. Household,
R/o Tilak Road, Opp. Wadia Park,
Ahmednagar, Tq. & Dist. Ahmednagar.
3. Mrs. Laxmi Narsee Patel,
Age: 56 years, Occ. Household,
R/o Tilak Road, Opp. Wadia Park,
Ahmednagar, Tq. & Dist. Ahmednagar.
4. Mrs. Kusum Sitaram Sable,
Age: 64 years, Occ. Household,
R/o Kusum Sadan, Agarkar Mala
Behind Laxmi Furniture,
Tq. & Dist. Ahmednagar.
5. Kashinath Ganpat Padole
Deceased through legal heirs.
- 5a. Rukhmini Kashinath Padole
Age: 70 years, Occ. Household
- 5b. Rajendra Kashinath Padole
Age: 51 years, Occ. Business
- 5c. Mahendra Kashinath Padole,
Age: 37 years, Occu. Business
- 5d. Nanda Dilip Borude,
Age: 58 years, Occu. Household

- 5e. Manda Dattatraya Shinde,
Age: 47 years, Occu. Household
- 5f. Manisha Mukud Raskar
Age: 45 years, Occu. Household
- 6. Ramkrishna Ganpat Padole
Age: 66 years, Occ. Business

No.5(a) to 5(f) and 6 are R/o
C/o Shubham Collection,
Samsung Dept. Padole Colony,
Tilak Road, Ahmednagar.

... Respondents

Mr. S.P. Brahme, Advocate for the petitioner.

CORAM : SUNIL P. DESHMUKH, J.
DATE : 08-06-2016.

Per Court :

1. Heard Mr. P.S. Brahme, learned advocate for the petitioner.

2. The petitioner is purportedly aggrieved by the rejection of application exhibit-72 for framing an issue as referred to therein is before this court. The appellate court appears to have considered that since there are no pleadings, the issues based on arguments cannot be framed and as such went on to reject the application.

3. Learned counsel for the petitioner has referred to the observations of this court under paragraphs no. 5 and 6 and purports to point out that it has been left open for the defendants

to take up such contentions, arguments and submissions as are deemed appropriate with reference to contents as are already appearing in the written statement.

4. Thus, the efficacy of those observations cannot be said to be in any way attenuated or affected by rejection of the request under application exhibit-72. In any case, if the petitioner feels and thinks that he is aggrieved by the rejection of the application-exhibit-72, it is open for him to take up such grounds / contentions in further proceedings having regard to section 105 of Civil Procedure Code. Writ Petition for said purpose does not deserve consideration.

5. In view of aforesaid, the same stands rejected.

(SUNIL P. DESHMUKH)
JUDGE9