

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.2767 OF 2005

Shri Jatansing Dhabusingh Patil,
Age : 70 years, Occupation : Agri,
R/o Kalmsare, Tq.Amalner,
District Jalgaon.
Since deceased through L.Rs.:-

- 1) Bhikesing Jatansing Patil
Age : 47 years, Occupation : Agri,
R/o Kalamsare, Tq.Amalner,
District Jalgaon.
- 2) Pradeepsing Jatansing Patil,
Age : 42 years, Occupation : Service,
R/o At and Post Pimpri (Kh),
Tq.Darangaon, District Jalgaon.
- 3) Smt.Ujenbai Bhimsing Chaudhari,
Age : 55 years, Occupation : Household,
R/o At and Post Wabode, Tq.Shirpur,
District Dhule.
(L.Rs. are brought on record as per court's
order dated 29.04.2011 in CA No.245/2010)

...PETITIONERS

-VERSUS-

Ratansing Ganpat Patil.
Since deceased (Legal Heirs)

- 1) Bharatsing Ratansing Patil,
Age : 46 years, Occupation : Agri,
R/o Kalmsare, Tal.Amalner,
District Jalgaon.
- 2) Chandrakalabai Bhimsing Patil,
Age : 36 years, Occupation : Household,
R/o Pimpri, Tal.Shirpur,

District Dhule.

- 3) Nirmalabai Bansilal Jamdar,
Age : 34 years, Occupation : Household,
R/o Surat.
- 4) Ranjanbai Premsing Jadhav,
Age : 31 years, Occupation : Household,
R/o Nane, District Dhule.
- 5) Meenabai Chandrasagar Rajput,
Age : 28 years, Occupation : Household,
R/o Aurangabad.
- 6) Gulababai Bharatsing Patil,
Age : 56 years, Occupation : Household,
R/o Kalmsare, Tal.Amalner,
District Jalgaon.

...RESPONDENTS

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Advocate for the Petitioners : Shri V.T.Choudhari
Advocate for the Respondents : Shri Bolkar Yogesh B.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 13th September, 2019

Oral Judgment :

1 By consent of the parties, I have heard this petition, considered the submissions of the learned advocates and gone through the petition paper book.

2 The respondents herein are the original defendants, who are the appellants before the Appellate Court in Regular Civil Appeal No.51/1996. By order dated 27.06.2003 below exhibit 37, the Appellate

Court directed the appellants to deposit Rs.334334/- within one month. The said amount was not deposited, though the appellants enjoyed the protection. By the impugned order dated 23.12.2004, the Appellate Court concluded that the original plaintiffs have a right to recover the compensation amount in the event of the decree being confirmed in appeal. Hence, the applications exhibits 61 and 62 filed by the plaintiffs seeking direction to comply with the court's order and deposit the money, have been rejected.

3 Shri Bolkar, learned advocate for the respondents, has strenuously defended the impugned order contending that as the appeal is 23 years old, it can be disposed off in one month.

4 I find that the conduct of the appellants amounts to mocking at the orders of the court and it is a travesty of justice that the order of the court has not been complied with by the appellants though they have enjoyed the interim protection over a period of 23 years. The decree is in Regular Civil Suit No.74/1978 and 41 years have passed by. The court cannot abdicate its powers to direct compliance of its order.

5 In view of the above, this writ petition is partly allowed. The impugned order dated 23.12.2004 is quashed and set aside.

6 The appellants/ original defendants shall deposit the amount of Rs.334334/- (Rupees Three Lac Thirty Four Thousand Three Hundred Thirty Four) along with simple interest at the rate of 4% per annum from

the date of the order of the appellate court, which is 27.06.2003, before the appellate court on or before 21.10.2019. If the said amount is not deposited, RCA No.51/1996 shall stand dismissed on 22.10.2019 without reference to the court.

7 After the amount is deposited, the litigating sides would advance their oral submissions after Diwali vacations, on or before 16.11.2019, keeping in view that the appeal is 23 years old. Thereafter, the appellate court would deliver its judgment on or before 21.12.2019 and shall not seek extension of time.

8 Needless to state, the plaintiffs shall not be permitted to withdraw the said amount, as it is matter of only three months within which the appeal could be decided, as they have already waited for almost 26 years.

9 Rule is made partly absolute in the above terms.