

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

WRIT PETITION NO. 1888 OF 2020

- 1) Anita w/o Pralhad Salve,
Age 37 years, Occ. Household,
Residing at House No. 57, Old
Police Colony, N-7, CIDCO,
Aurangabad.
- 2) Manda w/o Vishal Pakhre,
Age 34 years, Occ. Household,
Residing as above.
- 3) Babasaheb s/o Fakirarao Dabhade,
Age 31 years, Occupation Nil,
Residing as above.
- 4) Bhaiyyasaheb s/o Fakirarao Dabhade,
Age 29 years, Occup. Service,
Residing as above.
- 5) Fakirarao s/o Pandurang Dabhade,
Age 48 years, Occup. Under Trial,
Residing at Plot No. 43, Survey
No. 35/P, Barapul Road, Soba Gali,
Opposite Shinde Complex, Mukund
Nagar, Mukunwadi, Aurangabad. ... **Petitioners.**

VERSUS

The State of Maharashtra,
Through the District Collector,
Aurangabad. ... **Respondent.**

Advocate for the Petitioners : Mr. Hemant Surve.
A.G.P. for the Respondent : Mr. S.N.Morampalle.

CORAM : MANGESH S. PATIL, J.
DATE : 10.12.2020.

JUDGMENT :

Heard. Rule. The Rule is made returnable forthwith. With the consent

of both the sides the matter is heard finally at the stage of admission.

2. In this petition under Article 227 of the Constitution of India the petitioners are impugning the order dated 01.07.2015 passed by the learned Civil Judge Senior Division Aurangabad in Misc. Civil Application No. 227/2014 thereby allowing their application for grant of letters of administration and succession certificate partly and merely declaring them to be the successors of deceased Panchfula Fakirarao Dabhade.

The learned advocate for the petitioners points out that in spite of the description of the properties was given in the application, the learned Judge has not assigned any reason as to why letters of administration were being refused. Similarly, even though it has been directed to issue succession certificate, there is no reference in the order as to the specific debts and securities in respect of which it is to be issued. The errors and defects being manifest, the matter be remanded to the learned Civil Judge for decision afresh.

3. I have carefully gone through the papers. As can be seen from the application filed by the petitioners before the learned Judge, it was a composite application for grant of letters of administration as well as succession certificate. Though the prayer clause is not specific as to in respect of which property the letters of administration was being sought and in respect of which debts and securities the succession certificate was solicited, they had indeed given details and particulars of the properties in paragraph Nos. 2 and 3 of their application. If that be so it was expected of the learned Judge to have been more specific in issuing direction while accepting the request for grant of succession certificate.

4. Similarly, it was expected that since the letters of administration were being sought, the learned Judge ought to have come with some sound reasoning for refusing to issue the letters. It has only been vaguely mentioned in paragraph No. 9 of the impugned order that there is not

enough evidence about the lady executing the sale-deed at Exhibit 27 is the same Panchfula Fakirarao Dabhade in respect of whose properties and debts and securities the petitioners were asking for letters of administration. The reasoning assigned is not at all sound. There is a lack of application of mind while deciding the application.

5. It is in view of such state of affairs, the request made by the learned advocate Mr. Surve for remanding the matter for decision afresh deserves to be considered favourable.

6. The Writ Petition is allowed. The impugned order is quashed and set aside and the matter is remanded to the concerned Court for decision afresh in accordance with law and by extending an opportunity to the petitioners to lead evidence.

7. The Rule is accordingly made absolute.

(MANGESH S. PATIL, J.)

mkd/-