

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

**41 CIVIL APPLICATION NO.1058 OF 2021  
IN FAST/35105/2019**

THE EX. ENGINEER, WAGHUR DAM SECTION, JALGAON AND ORS  
VERSUS  
CHINDHU GOVINDA PATIL (GHODKE) AND ORS

...  
Advocate for Applicants : Shri Suresh D.Dhongade  
Advocate for Respondent Nos.2 and 3 : Shri Vinod Patil

...  
**WITH CA/846/2021 IN FAST/35105/2019**  
**WITH CA/845/2021 IN FAST/35105/2019**  
**WITH CA/14690/2019 IN FAST/35105/2019**  
**WITH CA/1059/2021 IN FAST/35105/2019**  
**WITH CA/14691/2019 IN FAST/35105/2019**  
**WITH CA/6871/2020 IN FAST/35105/2019**  
**WITH CA/5284/2020 IN FAST/35105/2019**

...

**CORAM : M.G.SEWLIKAR, J.**

**DATE: 26<sup>th</sup> February, 2021**

**PER COURT:-**

1. Heard Shri S.D.Dhongade, learned counsel for the applicant Acquiring Body. He states that Smt.Pushpabai W/o.Vitthal Patil, one of the claimants, died before passing the award in the Reference. He submits that since the Reference was against a dead person, the award be set aside and the matter be remanded to the trial Court for decision. He submits in the alternative that the legal heirs of the deceased be brought on record.

2. Shri Vinod Patil, learned counsel for respondent No.2 and 3 clarifies that the Reference was made under Section 18 of the

Land Acquisition Act to the Collector on 07-06-2005 and the said Pushpabai died in the year 2008. He states that the legal heirs of Pushpabai were already on record during the pendency of the Reference. Therefore, the only thing the claimants were required to do was to make an application for deletion of name of Pushpabai. That seems to have not been done. According to him, that does not make Judgment against a dead person.

3. On perusal of the application for Reference, copy of which is tendered across the Bar by Shri Patil, learned counsel for respondent Nos.2 and 3, it shows that Pushpabai was claimant No.4 whereas her sons by the name of Mukunda S/o. Vitthal Patil and Arjun S/o. Vitthal Patil were the claimant Nos.2 and 3. Since they were already on record and according to Shri Patil, learned counsel for respondent Nos.2 and 3, these are the only legal heirs of Pushpabai, no prejudice is caused by not deleting the name of Pushpabai.

4. In this view of the matter, the question of the Reference being against a dead person does not arise. Submission in this respect is therefore rejected.

5. Since legal heirs of Pushpabai are already on record, so far as Civil Application No.1059 of 2021 is concerned, the only thing that needs to be done is to delete the name of Pushpabai. In view of this, name of respondent No.4 – Pushpabai W/o. Vitthal Patil stands deleted. Leave to amend is accordingly granted.

6. So far as Civil Application No.1058 of 2021 is concerned, claimant Chindu S/o.Govinda Patil (Ghodke) died after the

Reference was decided. Therefore, his legal heirs are to be brought on record. For the reasons stated in the application, Civil Application No.1058 of 2021 is allowed. Delay is condoned. Abatement is set aside. Legal heirs of claimant Chindu S/o. Govinda Patil (Ghodke) be brought on record.

7. Leave to amend the proceedings before 12-03-2021.

**( M.G.SEWLIKAR )**  
**JUDGE**

SPT