

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

WRIT PETITION NO. 5061 OF 2017

PETITIONERS: 1 Gunwant Naththuji Gangekar,
aged about 48 years, Occ. Agriculturist,

2 Ananta Naththuji Gangekar,
aged about 50 years, Occ. Agriculturist,

3. Mahadeo Naththuji Gangekar,
Aged about 45 years, Occ. Agriculturist,

All Nos. 1 to 3 R/o. Umari Smarak,
Tq. Babhulgaon, District Yavatmal

4. Sau. Pushpa Dagdubaji Musarwale,
Aged about 42 years, occ. Agriculturist,
R/o. Ghotinga, Tah. Sindkhed Raja,
District Buldana.

5. Sau. Radha Dilip Pawar,
aged 35 years, Occ. Household,
R/o. Chincholi, Tq. Bhokardan, Dist. Jalna

Petitioner Nos. 2 to 5 are represented through
Petitioner No.1 -Gunwant Naththuji Gangekar
being Power of Attorney Holder

...VERSUS...

RESPONDENTS: 1. Uday Sudhakar Kapse,
Aged Major, Occ. Agriculturist,

2. Sau. Asha Pundlik Juwar,
Aged Major, Occ. Agriculturist/household,

3. Ganesh Wamanrao Chavhan,

Aged Major, Occ. Agriculturist,

4. Ramesh Wamanrao Chavhan,
Aged Major, Occ. Agriculturist,
 5. Ramesh Bhimrao Tupatkar,
Aged Major, Occ. Agriculturist,
 6. Hanumant Vishwanath Waghade,
Aged Major, Occ. Agriculturist,
 7. Vishnu Bhagwan Kurwade,
Aged Major, Occ. Agriculturist,
 8. Ramkrushna Raghunath Shinde,
Aged Major, Occ. Agriculturist,
 9. Dashrath Naththji Khatale,
Aged Major, Occ. Agriculturist,
 10. Pradip Narayanrao Kolhe,
Aged Major, Occ. Agriculturist,
 11. Umesh Maroti Rokade,
Aged Major, Occ. Agriculturist,
 12. Vishwanath Gangaram Shinde,
Aged Major, Occ. Agriculturist,
- Nos. 1 to 12 R/o. Umari Smarak,
Tah. Babhulgaon, Dist. Yavatmal
13. The Hon'ble State Minister (Revenue)
State of Maharashtra, Mantralaya,
Mumbai.
 14. The Tahsildar, Babhulgaon,
Tah. Babhulgaon, Dist. Yavatmal

Shri P.R.Agrawal, Advocate for petitioners
Shri J.B.Kasat, Advocate for Respondent Nos. 1 to 12
Shri N.R.Patil, AGP for Respondent Nos. 13 and 14

CORAM : AVINASH G. GHAROTE, J.
DATE : 11/02/2021.

1] Heard Shri Agrawal, learned counsel for the petitioner.
Shri Kasat, learned counsel appears for Respondent Nos. 1 to 12 and
Shri Patil, learned AGP for Respondent Nos. 13 and 14.

2] Rule. Rule made returnable forthwith. Heard finally by
consent of the learned counsel appearing for the parties.

3] This writ petition is filed by the legal heirs of Natthuji
Gangekar, who had passed away on 14.06.2016, challenging the
order dated 06.06.2017 passed by the Hon'ble Minister in Revenue
Appeal No. 2017/C.No.75/J-9, which appeal was preferred by the
present respondent Nos. 1 to 12, against the order dated 12.06.2016
passed in Revision No. 218/BND-56/Umri Smarak/2015-16.

3] The appeal before the Minister was filed against Natthuji Ganuji Gangekar by respondent Nos. 1 to 12, inspite of being aware that Natthuji Ganuji Gangekar had already expired on 14.06.2016. To substantiate this, Mr. Agrawal learned counsel for the petitioners places reliance upon the cause title in W.P 2102/2017, filed by one Vishwanath Gangaram Shinde, on 13.12.2016, where the order passed by the Additional Commissioner dated 12.06.2016 was under challenge. In respect of this same order dated 12.06.2016, the revision before the Minister was also preferred on 25.03.2017. It is thus apparent that respondent 1 to 12 were aware of the demise of N.G.Gangekar on 14.06.2016, as they had filed W.P 2102/2017 on 13.12.2016, wherein one of the legal heirs of N.G Gangekar was made party respondents No.5.

4] This being the position, the respondents 1 to 12 in the present petition were clearly aware about the demise of N.G. Gangekar, in spite of which the appeal before the Minister was filed and prosecuted as against a dead person. The impugned order dated 6.6.2017, therefore, cannot be sustained on this ground alone. The

Writ Petition is, therefore, allowed and the impugned order dated 6.6.2017 is hereby quashed and set aside.

5] Rule is made absolute in above terms. In the circumstances, there shall be no order as to costs.

JUDGE

Rvjalit