

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

WRIT PETITION NO. 6293 OF 2016

- PETITIONERS:** 1 Smt. Chhayabai wd/o Tulsiram Fandi,
Org.J.D. Aged about 70 years, Occ. Household
2. Sanjay s/o Tulsiram Fandi,
aged about 31 years, Occ. Agriculturist,
3. Ratnamala d/o Tulsiram Fandi,
Aged about 29 years, Occ. Household,
4. Hemraj s/o Tulsiram Fandi,
aged about 28 years, Occ. Agriculturist,
5. Yogita d/o Tulsiram Fandi,,
aged about 26 years, Occ. Household,
6. Uttam s/o Lataruji Fandi,
Aged about 60 years, Occ. Agriculturist,

All petitioner Nos. 1 to 6 are
R/o. Mouda, Tah. Mouda,
Dist. Nagpur.

...VERSUS...

RESPONDENT: Deorao s/o Sitaram Vaidya
Org.D.H. aged about 73, Occ. Business & Agriculturist,
R/o. Near Jai Stambh, Mouda, Tah. Mouda
Nagpur.

Smt. R.S.Sirpurkar, Advocate for petitioners.
Shri A.M.Ghare, Advocate for respondent.

CORAM : AVINASH G. GHAROTE, J.
DATE : 16/09/2021.

(Oral Judgment)

1] Heard Mrs. Sirpurakar, learned counsel for petitioners and Mr. Ghare, learned counsel for the respondent.

2] Both the learned counsel for the parties are agreeable that in view of the judgment rendered in W.P No. 5503/2015, the order impugned in the present petition, dated 28.9.2016, below Exh.25, be quashed and set aside, and the matter be remanded back to the executing Court, as the decision of the executing Court to proceed with the matter will depend upon the decision on the application under Section 28 of the Specific Relief Act, as filed by the petitioner herein, in view of which the order dated 28.9.2016 passed below Exh.25 in R.D No. 8/2013 is hereby quashed and set aside and the matter is remanded back to the learned Executing Court, to be decided after the application under Section 28 of the SR Act, as filed by the petitioner is decided. In the circumstances there shall be no order as to costs.

JUDGE