

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

939 WRIT PETITION NO. 5671 OF 2022

MADHAVRAO RAMA JADHAV  
VERSUS  
SHALUBAI KAKASAHEB JADHAV AND OTHERS

...  
Advocate for Petitioner : Mr. Mayur V. Salunke h/f. Mr. V.D. Salunke  
...

**CORAM : MANGESH S. PATIL, J.**

**DATE : 23 JUNE 2022**

**PC :**

Heard.

2. Petitioner is the appellant before lower appellate court. During pendency of the appeal, respondent no. 1 - Jankabai died. By the order under challenge, the respondent no. 1 has been allowed to be brought on record as her legal representative. Pertinently, admittedly, respondent no. 1 has received heirship certificate under the Bombay Regulation, 1827 on the basis of which she has been allowed to come on record and represent the cause in place of the deceased respondent no.1. Even the petitioner has subsequently taken steps for revocation of that certificate granted in favour of the respondent no.1 herein. So long as it is not revoked, it cannot be said that any error is committed by the learned Judge in allowing the respondent no. 1 to come on record as a legal representative of the deceased - Jankabai.

3. Apart therefrom, in view of the provisions of Order XXII Rule 5 of the Code of Civil Procedure, it is imperative to hold an enquiry, more particularly, if the respondent no. 1 has propounded the will of Jankabai.

4. As of now, the impugned order cannot be said to be either arbitrary, perverse or capricious calling for interference in this proceeding.

5. Writ petition is dismissed. All the issues are kept open.

**[ MANGESH S. PATIL ]**  
**JUDGE**

arp/