IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

1026 WRIT PETITION NO.4886 OF 2022

SANTOSH KANAKMAL MUNOT LEGAL HEIR OF SHRI KANAKLAL RAMCHAND MUNOT
VERSUS
INCOME TAX OFFICER AND OTHERS
WITH
1027 WRIT PETITION NO.4887 OF 2022

SANTOSH KANAKMAL MUNOT LEGAL HEIR OF SHRI KANAKLAL RAMCHAND MUNOT
VERSUS
INCOME TAX OFFICER AND OTHERS
...

Ms. Deepa Khare H/for RR Sancheti, for petitioner.
Dr. Kalpalata Patil- Bharaswadkar, Advocate for the respondents

CORAM : R.D. DHANUKA & S. G. MEHARE, JJ.
DATE : 29th April, 2022

ORDER:

1. Rule. Learned counsel for the respondents waives service. Rule is made returnable forthwith.

2. Learned counsel for the petitioner, on instructions, states that the assessee against whom notice under section 148 of the Income Tax Act was issued has already expired.

3. In the present petitions under Article 226 of the Constitution of India, the petitioner has prayed for declaration that the impugned notices dated 31.03.2021 issued under section 148 of the Income Tax Act for assessment years 2013-14 and 2015-16 are illegal and void ab

initio in view of the fact that the assessee Kanakchand had expired on 24th April, 2014.

4. Learned counsel for the Revenue does not dispute the position that notice under section 148 could not have been issued against the dead person.

5. In view of this position, in our view, notices issued in both these matters after the death of assessee cannot be proceeded with and accordingly they are quashed and set aside.

6. Writ petitions are allowed. No order as to costs.

7. Rule is made absolute in the aforesaid terms.

8. Parties to act upon authenticated copy of the order.

9. The respondents would be at liberty to proceed in accordance with law.

(S. G. MEHARE, J.) **(R.D. DHANUKA, J.)**

JPC