

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

WRIT PETITION NO.5309 OF 2022

DHANULAL BABULAL CHOUDHARY AND ANOTHER
VERSUS
BUGANBAI ALIAS YASHODABAI MOHANLAL CHOUDHARY AND OTHERS

...
Advocate for Petitioners : Mr. Ghatol Patil Shahaji B.
AGP for Respondent No.7 : Mr. S.B. Pulkundwar
...

CORAM : MANGESH S. PATIL, J.

DATE : 28.06.2022

PER COURT :

The petitioners are some of the claimants in a reference preferred by the Special Land Acquisition Officer under Section 30 of the Land Acquisition Act. They are aggrieved by the order passed by the reference court on the application (Exhibit-86) filed by the respondent Nos.1 to 6 seeking their impleadment in the reference as legal heirs of the respondent No.7 therein by name Mohansingh.

2. Mohansingh died even before the reference was made to the reference court consequently there is no question of abatement and applicability of Order XXII of the Code of Civil Procedure.

3. On the petitioners own showing, the respondent Nos.1 to 6 have been declared as the heirs of the deceased Mohansingh in a proceeding under Section 2 of the Bombay Regulation VIII of 1827, a copy of which is annexed with the petition.

4. Right in the teeth of such state of affairs, so long as the heirship certificate granted in their favour is not invoked, one will have to proceed on the premise that they are the legal heirs of Mohansingh.

5. The issue as to the identity of the Mohansingh has also been addressed by the respondent Nos.1 to 6 by pointing out that in earlier litigation in the form of couple of suits these petitioners had admitted that the deceased Mohansingh was also known as Mohanlal.

6. The impugned order merely permits the respondent Nos.1 to 6 to participate in the reference. If name of Mohansingh was appearing, when the respondent Nos.1 to 6 herein have been declared as his legal heirs, the order under challenge allowing them to participate in the inquiry cannot be said to be illegal.

7. Needless to state that the question as to the entitlement of the deceased Mohansingh is still sub-judice and the petitioner can lead evidence to demonstrate that he was not entitled to receive any compensation.

8. The Writ Petition is dismissed. The reference may be decided as early as possible.

(MANGESH S. PATIL, J.)

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