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

WRIT PETITION NO.14833 OF 2019

Kushabai W/o Sheshrao Kendre
and anr.

..PETITIONERS

VERSUS

The State of Maharashtra and ors. ..RESPONDENTS

Mr. S.B. Solanke, Advocate for petitioner;
Mrs. M.A. Deshpande, A.G.P. for respondent no.1;
Mr. A.V. Hon, Advocate for respondent no.3

**CORAM : RAVINDRA V. GHUGE
AND
S. G. MEHARE, JJ.**

DATE : 4th March, 2022

P.C.

1. In a fight between two wives, the petitioners herein, we are disturbed by the fact that they are relying upon an order passed by the learned 2nd Joint Civil Judge Junior Division, Ahmedpur, dated 6.2.2018 in Misc. Civil Application No.250 of 2017 (filed by both these wives as well as the son of the second wife), granting an heirship certificate to the two wives as well as the son of the second wife by concluding that they all are the legal heirs of the deceased

(2)

Sheshrao and have equal rights.

2. The learned Advocate for the petitioner submits that he has gone through the judgment of the learned Full Bench of this Court in the matter of **Kamalbai & ors. vs. The State of Maharashtra & ors., 2019 (3) Mh.L.J. 921** and submits that this Court has concluded that the second wife cannot be held to be the legally wedded wife and as such, she cannot be entitled to family pension. The heirship certificate is apparently unsustainable.

3. In view of the above, the law is well settled that petitioner no.1 who is admittedly the first wife, would be entitled for the pension.

4. The learned Advocate Mr. Hon for the Zilla Parishad submits that the proposal would be forwarded to the office of the Accountant General on or before 21st March, 2022. We direct the Accountant General's office to ensure that the regular pension as well as arrears of pension shall be released on or before 30th April, 2022 in favour of Kushabai Sheshrao Kendre.

5. With these directions, the petition is disposed off. No order as to costs.

6. We instruct the learned Registrar (Judicial) of this Court as under:-

- a) Place this matter before the Honourable Guardian Judge of Judicial District Nagpur since the learned Judge Ms. V.S. Pawar, who has passed the order dated 6.2.2018 granting heirship certificate to both the wives and the son in Misc. Civil Application No.250 of 2017, is presently posted as the learned 10th Joint Civil Judge Junior Division & Judicial Magistrate First Class, Nagpur.
- b) Place this order before the learned Principal District Judge, Latur so as to take up the order dated 6.2.2018 passed in Misc. Civil Application No.250 of 2017, by exercising the powers under Section 7 of Bombay Regulation VIII of 1827 and Section

(4)

383 of the Indian Succession Act, 1925 and may himself deal with the matter or may allot the case to the learned District Judge assigned with the said jurisdiction.

(S. G. MEHARE, J.)

(RAVINDRA V. GHUGE, J.)

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