

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

**CIVIL APPLICATION NO. 11388 OF 2022
IN
WRIT PETITION NO. 268 OF 2003**

Chandrabhan Bhikaji Aavhale
Died through his L.Rs.
Gokul Chandrabhan Aavhale .. Applicant

Versus

The Divisional Forest Officer,
Osmanpura, Aurangabad .. Respondent

Shri Avishkar S. Shelke, Advocate for the Applicant.
Shri S. N. Kendre, A.G.P. for the Respondent.

**CORAM : SHARMILA U. DESHMUKH, J.
DATE : 05TH JANUARY, 2023.**

FINAL ORDER :

. This civil application has been preferred in disposed of writ petition. By order of 17th March, 2022 passed in Writ Petition No. 268 of 2003, the Petitioner therein, father of the applicant herein and who expired on 02.04.2006, was held entitled to payment of quantified compensation of Rs. 2,80,000/- to be paid on or before 31.03.2022. The order of 17th March, 2022 also takes into consideration the fact of death of the Petitioner and direction is given for payment of the amount to the surviving widow within the same time.

2. Learned counsel for the applicant submits that applicant's mother i. e. widow of the deceased Chandrabhan Bhikaji Aavhale passed away prior to passing of the order dated 17th March, 2022, which fact was not brought to the notice of this Court at the time

of the passing of the order dated 17th March, 2022. The Applicant claims to be the sole legal heir. In support of his contentions, the applicant has tendered death certificate of his late mother and the heirship certificate which has been issued in his favour certifying the applicant as the legal heir of the deceased Chandrabhan Bhikaji Aavhale and Sindhubai Chandrabhan Aavhale.

3. The order of 25th May, 2022 passed by the Deputy Conservator of Forest Aurangabad refuses to make the payment as directed by order dated 17th March, 2022 for the sole reason that the order of 17th March, 2022 directs the payment to be made to the surviving widow.

4. Considering the fact that the widow of the deceased respondent in the Writ Petition No. 268 of 2003 had already expired was not brought to the notice of the Court which led to passing of the order of payment to the surviving widow, the applicant being sole legal heir is entitled to the payment. The payment of the amount has not been disputed by the respondent and the only objection is that the order of 17th March, 2022 directs the payment to be made to the widow. In my opinion, since there is no dispute as far as the payment of amount is concerned and regarding the applicant being legal heir of the deceased Chandrabhan Bhikaji Aavhale, it would be in the interest of justice to allow the civil application.

5. Hence the following order.

ORDER

A. Respondent is directed to pay the amount as directed by order dated 17th March, 2022 passed in Writ Petition No. 268 of 2003 to the son of Chandrabhan Bhikaji Aavhale i. e. applicant herein within a period of three (03) months from today.

B. Civil application is disposed of.

[SHARMILA U. DESHMUKH, J.]

bsb/Jan. 23