

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

927 WRIT PETITION NO.14716 OF 2021

TARABAI MOHANRAO ALIAS APPARAO (APPASAHEB) SHELKE
VERSUS
MOHANRAO ALIAS APPARAO (APPASAHEB) PANDITRAO
SHELKE AND OTHERS

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Advocate for Petitioner : Mr. Joshi Rahul G.
AGP for Respondents State: Mr. P. K. Lakhotiya
Advocate for Respondent No.1: Mr D M Mane h/for Mr.G.P. Shinde
Advocate for Respondent Nos. 5 & 6: Mr. V. D. Gunale

CORAM : RAVINDRA V. GHUGE &
Y. G. KHOBRAGADE, JJ.

DATE : 6th September, 2023

ORDER:

1. This is a unique case wherein Respondent No.1-pensioner husband is alive. The Petitioner claims to be the first legally wedded wife. According to the Petitioner, Respondent No.7 is the 4th wife. In all, Respondent No.1 has four wives. The 2nd and 3rd wife are no more.

2. By this petition, the petitioner desires that the Admissibility Report dated 29.04.2015 given by the Indian Audit and Accounts Department, Office of the Accountant General, (Accounts & Entitlement), Pension Wing, Nagpur, be quashed. The Petitioner has put-forth a claim for family pension being the

first wife. The Senior Accounts Officer who has made the admissibility report, has issued the following directions.

"2. It is also pointed out that Smt. Tarabai Shelke has put forth her claim for family pension being the first wife. Hence, the Department has to verify the real claimant. You are requested to investigate the matter and intimate accordingly."

3. Respondent No.1 submits that he is a retired employee, who is still alive. He does not desire to make any statement in the Court as regards his nominee.

4. In the light of above, we find that this Petition cannot be entertained in our writ jurisdiction. If there is a dispute between the Petitioner and Respondent No.7, they will have to approach the appropriate Civil Court for getting a declaration as to who is the first wife and in the light of **Kamalbai Venkatrao Nipanikar Vs. The State of Maharashtra and others, 2019 (3) Mh.L.J. 921 (Full Bench)**, the first wife would be the legally wedded wife.

5. We would not make any observation as regards the family pension since it is premature to do so in the light of the husband being alive. **This Petition is, therefore, disposed off.**

(Y. G. KHOBRAGADE, J.)

RAVINDRA V. GHUGE, J.)

JPChavan