

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

WRIT PETITION NO.13533 OF 2023

**LATA NARAYAN KHARBAS
VERSUS
THE UNION OF INDIA THROUGH SECRETARY AND OTHERS**

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Mr. S. B. Shirsat, Advocate for Petitioner
Mr. S. K. Tambe, AGP for Respondent – State
Mr. A. G. Talhar, DSGI for Respondent – Union of India

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**CORAM : RAVINDRA V. GHUGE AND
Y. G. KHOBRAGADE, JJ.**

DATE : 28.11.2023

PER COURT :-

1. We have considered the submissions of the learned Advocate for the Petitioner for quite some time.

2. It is an undisputed position that the Petitioner is the second wife of Late Narayan Yadu Kharbas. It is also an undisputed position that Respondent No.4 Kamal is the first legally wedded wife of the deceased. It is equally undisputed that the first wife gave birth to a daughter on 20.05.1975. The first

wife approached the competent Court in Criminal M.A. No.41/2003, seeking maintenance under Section 125 of the Code of Criminal Procedure. By judgment dated 29.11.2004, the competent Court has recorded that because the deceased started residing with the Petitioner, he drove the first wife, out of the house and thereafter, the litigation has commenced in 2003. The present Petitioner has two sons and two daughters born out of the relations with the deceased. By the judgment dated 29.11.2004, the first wife has been granted maintenance.

3. The learned Full Bench of this Court has held in ***Kamalbai Venkatrao Nipanikar Vs. The State of Maharashtra and others - 2019(3) Mh.L.J. 921***, that notwithstanding that there is a second woman with whom the bread earner has biological children, a second marriage is unacceptable in the eyes of law and therefore, the pensionary benefits cannot be made available to the second wife.

4. The Hon'ble High Court of Karnataka, in its judgment dated 17.11.2023 in Writ Appeal No.256 of 2023 (S-R), has held that a second wife cannot have any right to pensionary benefits.

5. In view of the above, this Petition cannot be entertained and the same is therefore, **dismissed**.

[Y. G. KHOBRADE, J.]

[RAVINDRA V. GHUGE, J.]

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