



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

WRIT PETITION NO. 4983 OF 2023

**KESHARBAI SHAHADEO ANDHALE AND ANOTHER
VERSUS
MUKTABAI SHAHADEO ANDHALE AND ANOTHER**

...

Mr. Garud N.C., Advocate for the Petitioners

Mr. K. M. Nagarkar h/for Ms. Kulkarni Smita S., Advocate for Respondents

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CORAM : S. G. CHAPALGAONKAR, J.

DATE : 31.07.2025

PER COURT :-

1. The present writ petition takes exception to order dated 15.02.2023 passed by learned Civil Judge Senior Division, Ahmednagar in Civil M. A. No.257 of 2022 below Exhibit-16, by which application filed by respondents is allowed, permitting them to intervene in Civil M. A. No.257 of 2022 filed by petitioner.

2. Mr. N. C. Garud, learned Advocate appearing for petitioner invites attention of this Court to decree passed in R.C.S. No.125 of 2007 dated 08.01.2010, wherein petitioner/plaintiff was held to be legally wedded wife of Shahadev Andhale and directions were given against him to pay maintenance of Rs.1,000/- (Rs. One Thousand only) per month.

3. Mr. N. C. Garud further invites attention to the observations made by Civil Court that respondent Muktabai had no

locus to claim that she is legally wedded wife of Shahadev. He contends that although decree passed by Civil Court in R.C.S. No.125 of 2007 was placed before learned Civil Judge Senior Division, Ahmednagar while defending application for intervention filed by respondents, same is not considered and directions are given to implead them as parties in Civil M. A. No.257 of 2022, whereby petitioner is claiming issuance of succession certificate in her favour.

4. Per contra, Mr. Nagarkar, learned Advocate appearing for respondents relying upon contents of affidavit-in-reply submits that in maintenance proceeding before learned Civil Judge Junior Division, Pathardi vide R.C.S. No.125 of 2007, defendant No.1 Shahadev Andhale had admitted relationship with defendants and therefore, they are his legal representatives and entitled for succession along with petitioner.

5. Having considered submissions advanced, it can be observed that while passing impugned order, learned Civil Judge Senior Division Ahmednagar has not considered the effect of judgment and decree in R.C.S. No.125 of 2007, wherein contention of defendant Shahadev that respondent No.1 is his wife and respondent No.2 is his daughter has been rejected. When there is substantive decree by Civil Court ruling on rights of parties, learned Judge ought to have considered the effect of such decree while deciding issue of succession certificate.

6. In that view of the matter, this Court deems it appropriate to relegate matter to learned Civil Judge Senior Division Ahmednagar to reconsider issue in light of decree passed in R.C.S. No.125 of 2007. Hence, following order is passed:

::ORDER::

- a. Writ petition is partly allowed.
- b. The impugned order dated 12.02.2023 passed below Exhibit-16 in Civil M. A. No.257 of 2022 is hereby quashed and set aside.
- c. Learned Civil Judge Senior Division Ahmednagar to reconsider application below Exhibit-16 in light of judgment and decree passed in R.C.S. No.125 of 2007 by learned Civil Judge Pathardi, so also the effect of admission of Shahadev Andhale regarding relationship with respondent No.1 and pass further order in accordance with law after granting opportunity of hearing to all concerned.

[S. G. CHAPALGAONKAR, J.]

HRJadhav