



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

903 WRIT PETITION NO. 8033 OF 2025

Ratnakar Laxmikant Nishandar

VERSUS

Ramnarayan Murlidhar Baheti Died Thr Lrs Pravin
Ramanarayan Baheti And Others

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Advocate for Petitioner : Mr. S.P. Tiwari

AGP for Respondents : Mr. N.S. Shah h/f S.S. Patil

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CORAM : S. G. CHAPALGAONKAR, J.

Dated : July 10, 2025

PER COURT :-

1. Petitioner impugns the order dated 23.6.2025 passed by the Civil Judge, J.D. Bhadgaon, District Jalgaon, in R.D.No.5 of 2012, by which application Exhibit-11 is allowed permitting impleadment of heirs of late decree holder Ramnarayan, on record of Execution Petition.

2. Mr. Tiwari, learned advocate appearing for the petitioner submits that decree holder Ramnarayan died on 13.2.2005, whereas his wife died on 14.3.2010. Application for bringing L.Rs. has been belatedly filed and ought to have been rejected on the ground of delay and laches.

3. Per contra, learned advocate appearing for the respondents relying upon judgment of the Supreme court in case of **V. Uthirapathi Vs. Ashrab Ali**, reported in 1998 AIR SCC 1168 supports the impugned order, wherein the Supreme Court observed as under :-

“15. It is clear, therefore, that if after the filing of an execution petition in time, the decree holder dies and his legal representatives do not come on record or the judgment debtor dies and his legal representatives are not brought on record, then there is no abatement of the execution petition. If there is no abatement, the position in the eye of law is that the execution petition remains pending on the file of the execution Court. If it remains pending and if no time limit is prescribed to bring the legal representatives on record in execution proceedings, it is open in case of death of the decree holder, for his legal representative to come on record at any time. The execution application cannot even be dismissed for default behind the back of the decree holder's legal representatives. In case of death of the judgment debtor, the decree holder could file an application to bring the legal representatives of he judgment debtor on record, at any time. Of course, in case of death of judgment-debtor, the Court can fix a reasonable time for the said purpose and if the decree holder does not file an application for the aforesaid purpose, the Court can dismiss the execution petition for default. But in any event the execution petition cannot be dismissed as abated. Alternatively, it is also open to the decree holder's legal representatives, to file a fresh execution petition in case of death of the decree holder; OR, in case of death of the judgment debtor, the decree holder can file a fresh execution petition impleading the legal representatives of the judgment debtor; such a fresh execution petition, if filed, is, in law, only a continuation of the pending execution petition - the one which was filed in time by the decree holder initially. This is the position under the Code or Civil Procedure.”

4. Perusal of the impugned order depicts that, aforesaid contentions were raised before learned Executing Court. Executing Court giving reference to Order 22 Rule 12 of the Civil Procedure Code observed that provisions of limitation Act cannot be applied to execution proceedings and particularly, application of Rule 3, 4 and 8 is made non-applicable.

5. In light of that contention of petitioner that application for bringing legal heirs could not have been entertained for delay and laches or proceeding of the execution stood abated cannot be accepted.

6. In the result, there is no merit in the writ petition. Writ Petition stands **rejected**.

(S. G. CHAPALGAONKAR, J.)

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