



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

CIVIL REVISION APPLICATION NO. 230 OF 2025

1. Mangal Gurudayal Chauhan,
Age : 56 Years, Occu. : Household,
2. Vishal Gurudayal Chauhan,
Age : 38 Years, Occu. : Labour,
3. Sagar Gurudayal Chauhan,
Age : 36 Years, Occu. : Labour,

All R/o Panshet, Tq. Velhe,
Dist. Pune.

.. Applicants

Versus

1. Smt. Vijaya Gurdayal Chauhan,
Age : 46 Years, Occu. : Household,
R/o Irrigation Colony, Near Motibag,
Jalna.
2. Sumit Gurudayal Chauhan,
Age : 16 Years, Minor U/g of
respondent No. 1 above.
3. State of Maharashtra
Through Collector, Jalna.

.. Respondents

Shri Parag P. Shahane, Advocate for the Applicants.

Shri Ramesh R. Imale, Advocate for the Respondent Nos. 1 and
2.

Mrs. M. N. Ghanekar, A.G.P. For the Respondent No. 3.

**CORAM : SHAILESH P. BRAHME, J.
DATE : 13TH NOVEMBER, 2025.**

ORAL JUDGMENT :-

. Heard both sides finally at the admission stage with their consent.

2. The controversy pertains to heirship certificate after demise of one Gurudayal Ramjilal Chauhan on 13.10.2019. He was employee of irrigation department and for the service benefits his both wives have made rival claims for getting succession certificate. The judgment and order dated 07.08.2025 passed in R.C.A. No. 20 of 2025 confirming order dated 21.01.2025 in M.A. (RJI) No. 65 of 2021 is under challenge.

3. Learned counsel for the applicants submits that there is voluminous evidence on record to indicate that deceased Gurudayal was firstly married with the applicant No. 1 – Mangal on 10.03.1985. Applicant Nos. 2 and 3 are born out of the said wedlock on 09.07.1986 and 15.07.1988. It is submitted that the memorandum of marriage, birth certificates, school leaving certificates and caste certificates would corroborate claim of revocation of succession certificate issued in favour of the respondent Nos. 1 and 2. It is further submitted that the proceedings before the competent Civil Court and criminal Court instituted against deceased husband would also indicate prior marriage of the deceased with the applicant No. 1. In the absence of any dissolution of marriage, respondent Nos. 1 and 2 are not entitled to receive succession certificate vide order dated

02.12.2020 in M.A. (RJI) No. 66 of 2020. It is submitted that both the Courts below committed perversity and overlooked greater probative value of the documents on record. It is submitted that lower Appellate Court has committed error of jurisdiction in doubting the date of marriage relying upon the cross examination and memorandum of marriage. The findings recorded by the lower Appellate Court are contended to be perverse.

4. Per contra, learned counsel Mr. Imale appearing for the respondent Nos. 1 and 2 – caveators would support the impugned orders. It is submitted that entire claim of the applicants is suspicious because of the inconsistencies in the documents of memorandum of marriage and the birth certificates. It is vehemently contended that both the birth certificates at Exhibit - D were procured after the death of Gurudayal and are not reliable. It is further submitted that on the basis of affidavit of deceased entries of the names of the respondents were recorded in the service book, which were rightly relied upon in issuing succession certificate in M.A. (RJI) No. 65 of 2021. It is further submitted that no reliable evidence is produced by the applicants for revocation of the succession certificate. Learned counsel further submits that reliance cannot be placed on the decision rendered in R.C.S. No. 1086 of 2010 because deceased was unable to contest the proceedings and matter had proceeded *ex parte*. Lastly, it is submitted that respondents took care of the deceased in his last days, when he was suffering from paralysis.

He breathed last at Jalna amongst them when the applicants were at Pune. The concurrent findings of facts are stated to be correct, reasonable and plausible.

5. I have considered rival submissions of the parties. Undisputedly, Gurudayal died on 13.10.2019. The memorandum of marriage indicates the date of marriage as 10.07.1990. The birth certificates and the school leaving certificates of the applicant Nos. 2 and 3 indicate that one was born on 09.07.1986 and another was born on 15.07.1988. Birth certificates were obtained on or before 04.01.2022 after death of Gurudayal, but that cannot be a sole reason to discard the probative value. Both birth certificates indicate name of Gurudayal Chavan @ Chauhan as father and Mangala as mother. Birth certificates have greater probative value because they were issued U/Sec. 12 of the Registration of Birth and Death Act. I am fortified in my view on the judgment rendered by Supreme Court in the matter of City and Industrial Development Corporation Vs. Vasudha Gorakhnath Mandevalekar reported in (2009) 7 SCC 283. This aspect is overlooked by both the Courts below.

6. Though the birth certificates were issued after death of Gurudayal, no recourse is taken by the respondent Nos. 1 and 2 to challenge those certificates. The school leaving certificates of the sons and caste certificates would corroborate the date of birth and fatherhood.

7. The clinching piece of evidence was produced by the applicants before the Courts below in the form of decision rendered by the Judicial Magistrate First Class, Pune in M. A. No. 2160 of 2008 as well as decision of the Civil Judge Senior Division Pune in R.C.S. No. 1086 of 2010. Both proceedings were filed by the applicant No. 1 – Mangala against deceased Gurudayal, one U/Secs. 3, 12(2), 18, 20, 22 and 23 of the Protection of Women from Domestic Violence Act and another was under the provisions of Hindu Adoption and Maintenance Act. In both proceedings the date of marriage is stated to be 10.03.1985. It was also recorded that the deceased was having affair and possibility of contracting marriage with Vijaya. Both the decisions were not challenged by the deceased Gurudayal. There is no reason to discard the date of marriage as 10.03.1985. More particularly when defence denying marriage by deceased Gurudayal was not accepted in both the proceedings.

8. The proceedings U/Sec. 383 of the Indian Succession Act are summery in nature. Applicants have produced the documentary evidence having probative value. While issuing succession certificate in M. A. (RJI) No. 66 of 2020 this material was not before the Court and succession certificate was issued by order dated 02.12.2020.

9. The observation of Appellate Court that the discrepancy in the memorandum of marriage, the birth certificates as well as in the surname are inconsequential. The documents having

probative value support applicants claim. It is nobodies case that earlier marriage of Gurudayal with applicant No. 1 – Mangal was dissolved. I am of the considered view that lower Appellate Court has committed patent illegality in giving undue importance to the date of marriage mentioned in memorandum of marriage.

10. In the service book names of the respondents are reflected. That was at the instance of the affidavit of the deceased. The material on record indicates that the relationship between deceased Gurudayal and applicants was strained. He contracted marriage with the respondent No. 1 - Vijaya on 01.06.1989. In all probabilities respondents' names were entered in the service book. The extract of the service book is not decisive factor to decide relationship and marriage. The documents discussed above are relevant to decide the marriage and the claim of the parties for the succession certificate. I am of the considered view that both the impugned orders are unsustainable.

11. There is no reason to doubt the submissions made by the learned counsel for the respondents that deceased died at Jalna and he was being looked after by the respondents, but that is not sufficient to validate marriage contracted by deceased with the respondent No. 1. Neither that is fact to discard subsisting and marriage of Gurudayal with applicant No. 1.

12. Learned counsel for the respondents objected that it would

not be open for this Court to grant succession certificate in the present proceedings. Unless independent rights are established before the competent forum, it would not be permissible to issue succession certificate in favour of the applicants. M. A. (RJI) No. 65 of 2021 is contended to be filed predominantly for revocation of the succession certificate issued in favour of the respondents. The prayers in M. A. (RJI) No. 65 of 2021 are two fold namely revocation of succession certificate issued in favour of respondents and for issuance of succession certificate. The respondents were party to the proceedings. The competent Court will have to consider the self same record for deciding the claim of the applicants for issuance of succession certificate. It would be repetition of the exercise. I find no merit in the submissions of the learned counsel for the respondents. However, it would be open to the parties to resort to the substantive proceedings challenging their status.

13. For the reasons recorded above, I therefore pass following order.

O R D E R

- A. The civil revision application is allowed.
- B. The order dated 02.12.2020 passed by 02nd Joint Civil Judge Junior Division, Jalna in M. A. (R.J.I.) No. 66 of 2020 as well as judgment and order dated 21.01.2025 passed by Ad-hoc District Judge – 1, Jalna in R. C. A. No.

20 of 2025 are quashed and set aside.

- C. M. A. (RJI) No. 66 of 2020 and consequential succession certificate issued in favour of the respondent Nos. 1 and 2 stand rejected.
- D. M. A. (RJI) No. 65 of 2021 stands allowed in terms of prayer clause No. 2.

[SHAILESH P. BRAHME J.]

14. After pronouncement of the judgment, learned counsel for the respondents seeks stay to the execution of this judgment and order for a period of eight (08) weeks from today.

15. Learned counsel for the applicants objects the request. As the respondents are desirous to approach the Supreme Court, I find it fit to stay this judgment and order for a period of four (04) weeks from today. However, it is made clear that after lapse of period of four (04) weeks protection granted today shall stand vacated automatically.

[SHAILESH P. BRAHME J.]