

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.15545 OF 2025**

Pradeep Nandaram Dagade and Anr. ... Petitioners
versus
Lakshman Waman Ambale and Ors. ... Respondents

Mr. S.C.Wakankar, for Petitioners.

CORAM: N.J.JAMADAR, J.

DATE : 16 DECEMBER 2025

P.C.

1. Heard the learned Counsel for the Petitioners.
2. The Petitioners, who are Defendant Nos.5 and 6 in RCS No.5 of 2008, have preferred this Petition aggrieved by an order dated 22 August 2025, passed by the learned Civil Judge, Saswad, whereby the application preferred by the Plaintiffs to bring on record the legal representatives of the deceased Defendant No.2, came to be allowed.
3. Respondent No.1/Plaintiff has instituted a suit for declaration that the Plaintiff has a right of preemption, and the alleged Sale Deed dated 26 June 2007 executed by the Defendant No.2 in favour of Defendant No.1 is illegal and void and does not bind the suit property and the Plaintiff.
4. In view of the further transfers, the Plaintiff has sought declaration in regard to the subsequent instruments executed by Defendant No.1. Defendant No.2 passed away on 7 October 2024. By the impugned order,

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the learned Civil Judge was persuaded to allow the application to bring the legal representatives of Defendant No.2 on record, as the learned Civil Judge was of the view that, there should not be any defect in the suit in regard to the joinder of the parties, at the time of final adjudication of the suit.

5. Mr. Wakankar, learned Counsel for the Petitioners, would urge that, the Defendant No.2 had already divested his interest in the suit property, and, therefore, in view of the devolution of interest in the suit property in favour of Defendant Nos.5 and 6, it was not necessary to bring the legal representatives of deceased Defendant No.2 on record.

6. The aforesaid submission loses sight of the fact that the suit was to enforce the right of preemption against the Defendant No.2. In this view of the matter, the Trial Court was justified in allowing the application for impleadment of legal representatives of the Defendant No.2 so as to rule out the possibility of any defect in the suit at the time of final adjudication.

7. The further submission of Mr. Wakankar that Defendant No.2, during his lifetime, had filled a written statement and admitted that he had already transferred the suit land in favour of Defendant No.1 and, therefore, the impleadment of the legal representatives of Defendant No.2 would serve no purpose, does not merit countenance as the Plaintiff is assailing the very instrument executed by Defendant No.2 in favour of Defendant No.1 asserting right of preemption.

8. In any event, even after the impleadment, the legal representatives of Defendant No.2 can only take those defences which are appropriate to their character as legal representatives of Defendant No.2 and may not be permitted to take a diametrically opposite stand.

9. Resultantly, the Petition, which is devoid of substance, stands dismissed.

(N.J.JAMADAR, J.)