

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**WRIT PETITION NO.1779 OF 2022
WITH
INTERIM APPLICATION NO.3441 OF 2024
IN
WRIT PETITION NO.1779 OF 2022**

Rekha Jayant Khandait)
Widow of Late Jayant Shankar Khandait)
Aged about 38 years, Indian inhabitant)
of Mumbai, Occupation: House wife, Residing at)
B. D. D. Chawl No. 54, Room No. 68,)
Dr. G. M. Bhosale Marg Lane, Opp. Jambhori)
Maidan Worli, Worli, Mumbai - 400018) .. Petitioner

Versus

1. The State of Maharashtra)
Through Government Pleader,)
High Court, Mumbai)
2. Ld. Joint Commissioner of Police)
Traffic Police Headquarter,)
87, Sir Pochkhanawala Road, Worli,)
Mumbai – 400030)
3. Pooja Khandait alias Pooja Narendra Mane)
Adult Indian inhabitant,)
B. D. D. Chawl No. 54, Room No. 17,)
Dr. G. M. Bhosale Marg Lane,)
Opp. Jambhori Maidan Worli, Worli,)
Mumbai – 400018)
4. Aarti Jayant Khandait alis Aarti Shubham)
Kamble Adult Indian inhabitant)
At post – Vathar (Kirvali),)
Taluka – Koregaon, District-Satara) .. Respondents

Mr. Rushabh Sheth a/w. Ms. Mansi Jain and Ms. Pratibha Rupnawar (through VC), Advocates for the Petitioner.

Ms. P. H. Kantharia, Government Pleader a/w. Ms. Fatima Lakdawala, Assistant Government Pleader for Respondent Nos.1 and 2.

Mr. Sangharsh Waghmare a/w. Mr. Piyush Todkar & Mr. Rahul Salve, Advocates for Respondent Nos. 3 and 4.

Smt. Rekha Khandait, Petitioner, present.

Smt. Pooja Khandait, Respondent No. 3, present.

Smt. Aarti Khandait, Respondent No. 4 present (through VC)

**CORAM : A. S. CHANDURKAR &
M. M. SATHAYE, JJ.**

DATED : 20th FEBRUARY 2025

ORAL JUDGMENT (Per A. S. CHANDURKAR, J.):

1. Rule. Rule made returnable forthwith. Heard finally by consent of the learned Counsel for the parties.

2. One, Jayant Shankar Khandait was engaged with the Mumbai police. He married Smt. Nanda and the couple had two children, Respondent Nos. 3 and 4. Smt Nanda expired on 17/10/2010. Jayant Khandait thereafter married the Petitioner on 29/05/2011 and from the said wedlock, a son was born. Mr. Jayant expired on 25/05/2020 on account of illness suffered during COVID-19. This gave rise to disputes between the Petitioner-widow of the Jayant Khandait and the Respondent Nos. 3 and 4, his children from the earlier marriage.

3. By the present Writ Petition, the Petitioner has prayed that benefits flowing from the service rendered by Shri Jayant Khandait be given only to

her with the exclusion of the Respondent Nos. 3 and 4. On 19/06/2021 an *ad-hoc* arrangement by passing an interim order came to be made. The relevant portion of the same reads as under:

“(i) The Petitioner shall be entitled to claim family pension under Rule 116 of the Maharashtra Civil Services (Pension) Rules, 1982.

(ii) So far as payments to be made for the deceased police constable out of Mumbai Police Foundation Trust as well as 7th Pay arrears and Government Aid to be made available to the relatives of the deceased as part of Covid -19 funds are concerned, the parties shall be entitled to share the same in equal proportion, that is to say, one half share to the Petitioner and her son, and the other half jointly to Respondents No.3 & 4.

(iii) So far as Death-cum-Retirement Gratuity, General Provident Fund, Deposit Linked Insurance Scheme Amount, Group Insurance Scheme, Leave Encashment dues of the deceased police constable are concerned, Respondents No.3 & 4 shall be entitled to claim one half of those benefits presently to the exclusion of the Petitioner.

(iv) The balance half of these five amounts shall be deposited by the Respondent-State in Court. The Registry/Prothonotary and Senior Master is directed to invest this amount in Fixed Deposit/s in any nationalised bank/s for a period of one year, renewable thereafter from time to time, so as to abide by further orders of this Court.

(v) As far as appointment on compassionate ground of the deceased's relative is concerned, the Respondent - State, as of now, shall stay its hands and not make any appointment pending hearing and final disposal of the present Petition.

(vi) While making available these benefits, the Respondent-State shall not insist of succession certificate from either the Petitioner or Respondents No.3 & 4. The parties are however free to apply for succession certificate, if they so choose.

(vii) As a special case, at the request of learned Counsel for the Petitioner, the Respondent-State is directed to allow the Petitioner to occupy the official residence of the deceased Jayant Shankar Khandait for a period of one month from today. At the end of one month, the Petitioner undertakes to this Court to vacate the residence. The undertaking is accepted

4. Today, the learned Counsel for the Petitioner, on instructions from the Petitioner, who is present in the Court submits that the Petitioner is not interested in seeking an appointment on compassionate grounds. He submits that this claim can be pursued by the Respondent Nos. 3 and 4. He further submits that in terms of Clauses (i) and (ii) above, the interim arrangement as made be continued with liberty to the Petitioner to withdraw the balance amount that stands deposited in this Court in accordance with Clause (iv) of the interim order.

5. The learned Counsel appearing for the Respondent Nos. 3 and 4, on instructions from the Respondent Nos. 3 & 4, who are present in Court today, accepts the giving up of the Petitioner's claim for compassionate appointment. They consent to the Petitioner receiving the amount of family pension *in lieu* of aforesaid and withdrawing the balance amount lying in deposit with accrued interest as per Clause (iv).

6. In view of the agreement between the consenting parties, the *ad hoc* arrangement is accepted, which shall operate between the parties subject to the following modification:

(a) The Petitioner having given up her claim of compassionate appointment, it will be open for the Respondent Nos. 3 and 4 to pursue the same in accordance with the law. Clause (v) of the

aforesaid order stands modified accordingly.

(b) The Petitioner is at liberty to withdraw the amount lying in deposit with accrued interest in terms of Clause (iv) of the aforesaid order.

7. It is clarified that this arrangement by consent relates only to what has been referred to herein above. The parties are free to have their rights adjudicated with regard to other claims in accordance with the law.

8. Rule is made absolute in above terms. The Writ Petition is disposed of with no order as to costs. Pending interim application is also disposed of.

(M. M. SATHAYE, J.)

(A. S. CHANDURKAR, J)