



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR**

CIVIL REVISION APPLICATION NO.85 OF 2024

Pimpalibai Motiram Jadhav (since deceased) through legal heirs

1. Uttam s/o Motiram Jadhav, aged about 74 years, occupation agriculturist.

2. Udhao s/o Motiram Jadhav, aged about 64 years, occupation agriculturist. r/o Adarsh Nagar, Pusad, taluka Pusad, district Yavatmal.

3. Ganesh s/o Motiram Jadhav, aged about 65 years, occupation agriculturist.

4. Sudhakar s/o Motiram Jadhav, aged about 63 years, occupation agriculturist.

5. Vinod s/o Motiram Jadhav, aged about 46 years, occupation agriculturist.

6. Sushila Madhukar Jadhav, aged about 55 years, occupation household.

7. Babulal s/o Madhukar Jadhav, aged about 36 years, occupation household.

8. Ramlal s/o Madhukar Jadhav, aged about 37 years, occupation household,

Nos.1 and 3 to 8 r/o Jyoti Nagar
(Ghatodi), taluka Pusad, district
Yavatmal.

..... Applicants.

:: VERSUS ::

1. The District Collector,
Yavatmal.

2. The Regional Officer, Maharashtra
Industrial Development Corporation,
Amravati Division, Amravati.

3. The Special Land Acquisition
Officer and Sub Divisional Officer,
Pusad, district Yavatmal.

4. Saribai Narayan Rathod, aged about
60 years, r/o Jyotinagar, Ghatodi,
taluka Pusad, district Yavatmal.

5. Sanjay Mersingh Rathod, aged
about 40 years, r/o Jyotinagar,
Ghatodi, taluka Pusad,
district Yavatmal.

..... Non-applicants.

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Shri P.B.Patil, Counsel for Applicants.

Ms.Ritu Sharma, Assistant Government Pleader for Non-
applicant Nos.1 & 3/State.

Shri S.P.Kshirsagar, Counsel for Non-applicant Nos.4 and 5.

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CORAM : URMILA JOSHI-PHALKE, J.

CLOSED ON : 15/01/2025

PRONOUNCED ON : 23/01/2025

JUDGMENT

1. By this revision, applicants have challenged order dated 4.10.2023 passed by learned Joint Civil Judge Senior Division, Pusad in RD No.20/2022 by which application seeking direction that share of non-applicant Nos.4 and 5 not to be disbursed to them came to be rejected.

2. Facts in short are as under:

The land survey No.24/1, admeasuring 8.74 HR of mouza Ghatodi, tahsil Pusad, district Yavatmal, owned by mother of applicants Pimpalibai Motiram Jadhav was acquired by the Government for industrial purpose. The Special Land Acquisition Officer passed award on 30.11.1991 and awarded compensation at the rate of Rs.85,000/- per hector. Being aggrieved and dissatisfied

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with the award passed by the Special Land Acquisition Officer, applicants filed reference under Section 18 of the Land Acquisition Act before the civil court at Pusad. On 23.9.2004, the reference court awarded compensation of Rs.2,25,000/- per hector. The said judgment and award was challenged by non-applicant No.2 – Maharashtra Industrial Development Corporation, Amravati Division, Amravati by preferring an appeal bearing First Appeal No.143/2005 before this court. The same was dismissed by this court. After dismissal of the said appeal, execution was filed by applicants on 5.8.2022. The applicants joined non-applicant No.4 - Saribai Narayan Rathod who is daughter of Pimpalibai and non-applicant No.5 - Sanjay Mersingh Rathod who is son of another daughter Prayagbai Mersingh Rathod. The applicants have filed an application under Order XXI Rule 16 of the Civil Procedure Code requesting not to disburse the amount in the name of non-applicant

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No.4 - Saribai Narayan Rathod and non-applicant No.5 - Sanjay Mersingh Rathod as they have relinquished their rights in favour of applicant No.2 Udhao Jadhav. As per contentions of the applicants, they have already executed agreement dated 14.6.2006 relinquishing their rights in favour of applicant No.2 which is a notarized document and thereby they are not entitled for any amount of compensation. However, the said execution is rejected by learned Joint Civil Judge Senior Division, Pusad. Being aggrieved and dissatisfied with the same, the present revision is filed by the applicants.

3. Heard learned counsel Shri P.B.Patil for applicants, learned Assistant Government Pleader Ms.Ritu Sharma for non-applicant Nos.1 and 3/State, and learned counsel Shri S.P.Kshirsagar for non-applicant Nos.4 and 5.

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4. Learned counsel for applicants submitted that in view of the agreement executed before the notary, non-applicant Nos.4 and 5 relinquished their rights and thus they are not entitled for any share in the compensation amount.

5. *Per contra*, learned counsel Shri S.P.Kshirsagar for non-applicant Nos.4 and 5 submitted that the relinquished deed is not a registered document and, therefore, it is not admissible evidence. Moreover, he filed on record certified copy of Hamipatra given by applicants before the court contending that they would not object or restrain non-applicant Nos.4 and 5 from withdrawing the amount. In view of that, the revision is devoid of merits and liable to be rejected.

6. After hearing both sides, it reveals that only issue involved is, whether the relinquishment deed requires any

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registration and what would be the effect of non-registered document.

7. Section 17(1)(b) of the Registration Act mandates that any document which has the effect of creating and taking away the rights in respect of an immovable property must be registered and Section 49 of the Act imposes bar on the admissibility of an unregistered document and deals with the documents that are required to be registered under Section 17 of the Act.

8. Section 17 of the Registration Act, states about documents of which registration is compulsory.

9. It is settled that Section 17(1)(b) of the Registration Act mandates that any document which has the effect of creating and taking away the rights in respect of an immovable property requires registration.

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10. Coming to facts of the present case, the applicants placed reliance on the agreement and claimed that non-applicant No.4 and non-applicant No.5 have relinquished their rights in favour of applicant No.2. The order passed by learned Joint Civil Judge Senior Division at Pusad shows that the agreement was not produced before the court, but only photo copy of the same was produced. Except affidavit applicant No.2, no legal heir certificate was produced on record. From the judgment of this court, it appears that legal heirs of deceased Motiram and deceased Prayagbai have been brought on record in First Appeal No.143/2005. Thus, non-applicant Nos.4 and 5 being legal heirs of Pimpalibai are entitled for the compensation amount.

11. Thus, considering that the registration is required to the document on which the applicants relied upon and

which is inadmissible in evidence, the contention of applicants that they are not entitled for any compensation amount on the basis of said document is unsustainable. As such, relinquishment deed which is unregistered document is not admissible in evidence and original relinquishment deed itself is not produced and, therefore, the revision is devoid of merits as learned Joint Civil Judge Senior Division at Pusad rightly rejected the application.

12. In this view of the matter, the revision is devoid of merits and liable to be dismissed and, therefore, the same is dismissed.

The Civil Revision Application stands **disposed of**.

(URMILA JOSHI-PHALKE, J.)

!! BrWankhede !!

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