

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

WRIT PETITION NO.1920 OF 2020

(Bhimrao s/o Haribhau Pazare Vs. The State of Maharashtra thr. its Secretary, Urban Development Department, Mumbai and others)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.*

Court's or Judge's orders.

Mr. Alok Daga, Advocate for Petitioner.
Ms. Prachi Joshi, AGP for Respondent Nos.1 & 2/State.
Mr. Samir S. Das, Advocate for Respondent No.3.

CORAM: R. M. JOSHI, J.

DATE: 10th JULY, 2025.

1. By consent of both the sides heard finally at the stage of admission.

2. This petition takes exception to the order impugned dated 15.02.2020 passed by the Collector, Chandrapur in Revenue Case No.14/LNA-22/2019-20, Mohalla-Jatpura-2, Chandrapur confirming the order dated 26.03.2018 on the basis of the fact that this Court in Writ Petition No.1415/1996 the Court has set aside order passed by the Additional Commissioner, Nagpur Division in Revenue Appeal No.LNA-22/Chandrapur/90-91 dated 21.11.1995.

3. Learned Counsel for the petitioner submits that the order impugned is passed only for the reason that this Court in Writ Petition No.1415/1996 by order dated 16.12.2005 has set aside the order passed by the Additional

Commissioner, Nagpur Division. He has drawn attention of this Court to the fact that on the date of passing of the order and in fact a year prior thereto the petitioner died. Thus, on expiry of period of 90 days the petition stood dismissed as abated. It is his submission by relying upon the judgment of the Hon'ble Supreme Court in the case of ***Gurnam Singh (Dead) Through Legal Representatives and others v. Gurbachan Kaur (Dead) By Legal Representatives (2017) 13 SCC 414*** that any order passed in favour or against the dead person is nullity.

4. Counsel for the contesting respondent as well as learned AGP supported the impugned order.

5. It is settled law that an order/defence which is nullity has no existence in law. Similarly, a petition stands abated, even without filing formal order or dismissal on that ground, on expiry of 90 days of death of petitioner. Here in this case, admittedly in Writ Petition No.1415/1996, the petitioner died and within 90 days of his death, for want of bringing his legal representatives on record, the petition stood dismissed as abated. It is only for the reason that the said fact of each of petition was not brought to the notice of this Court, it proceeded to decide the same on 16.12.2005. The said order being passed after dismissal of petition as abated is non est.

6. Perusal of order impugned indicates that the same has been passed only on the ground that this Court in Writ Petition No.1515/1996, has set aside order passed by

Additional Commissioner in favour of petitioner. Since, there is no other reason recorded for passing order, it can not sustain on the ground that order of this Court in the said petition is nullity as non est.

7. This Court therefore, has no hesitation to cause interference in the impugned order and the same is hereby set aside.

8. Petition stands allowed in terms of prayer clause (i) of the petition.

(R. M. JOSHI, J.)