



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

WRIT PETITION NO. 5258 OF 2024

- 1) Madhuri D/o Baburao Chandekar,
Aged about 32 years, Occ.-Nil,
- 2) Maya Baburao Chandekar,
Aged about 45 years, Occ.-Nil,

Both R/o. Near Carmel Academy School,
near S. T. Workshop, Tukum,
Tah. and Dist. Chandrapur.

.... **PETITIONERS**

// **VERSUS** //

- 1) Smt. Purna Baburao @ Motilal Chandekar,
Aged about 66 years, Occ.-Household,
R/o. Plot No.16, banker layout,
near Chokhameda Girls Hostel,
Naginabag, Tah. and Dist. Chandrapur.
- 2) Vikrant Baburao @ Motilal Chandekar,
Aged about 42 years, Occ.-Household,
R/o. Plot No.16, banker layout,
near Chokhameda Girls Hostel,
Naginabag, Tah. and Dist. Chandrapur.
- 3) Darshan Baburao @ Motilal Chandekar,
Aged about 66 years, Occ.-Service,
R/o. 307 Kutub Green apartment,
Ward No.7, Mehrauli Gadaipaur,
South West Delhi,
Dist. Delhi – 110030.

.... **RESPONDENTS**

Mr. N. A. Chawhan, Advocate for Petitioners.
Mr. Syed Salman Ali, Advocate for Respondent Nos.1 to 3.

CORAM : SMT. M.S. JAWALKAR, J.

DATE : 20th MARCH, 2025.

ORAL JUDGMENT :

1. **Rule.** Rule made returnable forthwith.
2. Heard finally with the consent of the learned counsel appearing for the parties.
3. The challenge in this petition is the order dated 13.01.2023 and 25.07.2024 passed by the learned Joint Civil Judge, Junior Division, Chandrapur in M.J.C. No.584/2021.
4. It is contention of the petitioners that there is an application under Section 2 of the Bombay Regulation Act, 1825 for issuance of Succession Certificate filed by Smt. Purna Baburao @ Motilal Chandekar bearing M.J.C. No.584/2021. In the said application, in view of publication of notice, present petitioners filed an application for grant of permission to file objection. Their learned Counsel assured to them that the objection will be decided after hearing. As there were no proper response from the earlier Counsel, the petitioners requested another Counsel for only verifying the status of their objection application. It was informed that their objection application was dismissed in default by order dated 13.01.2023. They were also informed that a review application dated 03.02.2023 filed by their earlier Counsel is pending. In view of this facts, the petitioners engaged another Counsel to prosecute the matter in the month of July-2024. The review application was also rejected by the learned Trial

Court vide order dated 25.07.2024. The said order is under challenge as the Counsel failed to appear in the said application also and impugned order came to be passed.

5. Learned Counsel for the respondents submitted that there is an order passed by the learned Civil Judge, Junior Division, Chandrapur on 10.07.2023, by which last chance was granted to argue the application for review. In fact, the application for review is filed under the signature of Counsel, which supports the contention of the petitioners that they were not informed about the status of their objection. In fact, earlier Counsel ought not to have filed application for review but ought to have filed for recalling the order as the contents in the review application are in respect of recalling the order passed by the learned Civil Judge, Junior Division, Chandrapur. If the petitioners would have been intimated about the order passed by the Trial Court on 13.01.2023, the petitioners could have filed an affidavit giving reasons why the petitioners and their Counsel are not present on the date when the matter is called out. However, the learned Counsel for the petitioners never intimated the status of the objections raised by the present petitioners.

6. In my considered opinion, the petitioners' objection may not be thrown at the threshold as in application for succession certificate the legal heirs' rights in the property are to be decided. It

appears that there is an ample opportunity is granted to the petitioners, however, the petitioners as well as their Counsel were absent. The reason for absence of petitioner, she has duly explained as her Counsel has not taken any care to intimate her about status of her objection nor informed about rejection of objection as not argued. In view of that, in the interest of justice, the order dated 13.01.2023 and 25.07.2024 passed by the learned Joint Civil Judge, Junior Division, Chandrapur in M.J.C. No.584/2021 is hereby quashed and set aside.

7. The petitioners to appear before the learned Civil Judge, Junior Division, Chandrapur where the matter is pending on the next date. However, for the inconvenience caused to the other side, needs to be compensated. The petitioners is liable to pay costs of **Rs.3,000/-** (Rs. Three Thousand only) to the applicant within a period of two weeks.

The writ petition stand disposed of in the above terms. No order as to costs.

(SMT. M.S. JAWALKAR, J.)