



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

WRIT PETITION NO. 5220 OF 2025

Pushpa Sunil Banait, Aged about 41 years,
Occ : Household, R/o Tamshi, Tq. Balapur, District Akola.

PETITIONER

VERSUS

Anusaya Changdeo Banait, Aged about 67 years,
Occ: Agriculturist, R/o Tamshi, Tq. Balapur, Dist. Akola.

RESPONDENT

Shri Sukrut S. Sohoni, counsel for the petitioner.
Shri A.M. Tirukh, counsel for the respondent.

CORAM : PRAFULLA S. KHUBALKAR, J.

DATE : DECEMBER 01, 2025

ORAL JUDGMENT

RULE. Rule is made returnable forthwith and heard finally with the consent of the learned counsel for the parties.

2. By this petition, the petitioner has challenged the order dated 13.03.2025 passed by the trial Court rejecting the applications at Exhibit 27 and 35 in M.J.C. No.158 of 2023.

3. It is the petitioner's case that the respondent had filed proceedings for grant of legal heirship certificate by paying fixed Court fees however, in view of the admission of the respondent in the cross-examination it became clear that the respondent desires to use the said heirship certificate for effecting mutation entries of the immovable properties. On the basis of this admission, the petitioner (respondent before the trial Court) filed an application at Exhibit 27 for direction to the respondent herein to file on record the Government valuation report of the agricultural properties mentioned in the said application. By the said application, the respondent (applicant therein) stated that in view of the disclosure in the

evidence, he will be required to pay Court fees as per Article 10 and 12 of the Maharashtra Court Fees Act on the legal heirship certificate. Apart from this, the petitioner (respondent before the trial Court) also filed an application at Exhibit 35 for direction to the applicant therein to file on record the mutation entries and 7/12 extracts of the agricultural properties mentioned in the said application. Both these applications came to be rejected by order dated 13.03.2025 and the same is subjected to challenge by way of instant petition.

4. The counsel for the petitioner submitted that in view of the clear admission by the respondent in the cross-examination disclosing the possible use of the heirship certificate for carrying out mutation entries, the Court fees as per Article 10 and 12 of the Act on the heirship certificate has to be paid and therefore there is need to bring on record the Government valuation report and 7/12 extracts of the agricultural properties. In this regard, the learned counsel for the respondent submitted that the stage for grant of heirship certificate is yet to come and the direction sought by these applications for producing the Government valuation report and 7/12 extracts is absolutely unwarranted. He submitted that the petitioner is co-owner of the property and is otherwise entitled to secure these documents and there is no need to issue any direction as sought for.

5. The short controversy involved is, whether the respondent (applicant in the M.J.C.) need to be directed to produce the Government valuation report and 7/12 extracts of the agricultural properties only because the heirship certificate, if granted will be used for the purpose of

effecting the mutation entries. Pertinent to note, the respondent herein has filed an application for grant of heirship certificate and has paid the requisite Court fees in the said application. The adjudication on the said application is going on and the applicant will be bound to deposit the requisite Court fees in case the heirship certificate is granted. Thus, at this stage the insistence of the petitioner to direct the respondent to file on record the Government valuation report and 7/12 extracts clearly appear to be an attempt to prolong the matter since the same are not necessary for deciding the actual controversy involved in the suit.

6. A perusal of the impugned order shows that the trial Court has given due consideration to the relevant factual and legal aspects and having found that there is no need to issue any direction to produce the Government valuation report and 7/12 extracts has rightly rejected the application. No perversity is seen in the impugned order. The petitioner's contention about the need for payment of Court fees on the heirship certificate, in case it is granted, is kept open.

7. In view of above mentioned factual and legal aspects, no indulgence is warranted with the impugned order under Article 227 of the Constitution of India. The writ petition is accordingly dismissed with no order as to costs.

(PRAFULLA S. KHUBALKAR, J.)