



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

917 WRIT PETITION NO. 3711 OF 2026

Janabai Mohanrao Jagtap

VERSUS

Anusaya Sulekha Mohanrao Jagtap And Others

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Advocate for Petitioner : Mr. K.V. Patil

Advocate for Respondents : Mr. S.B. Gastgar

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CORAM : S. G. CHAPALGAONKAR, J.

Dated : April 08, 2026

ORDER :-

1. Present writ petition takes exception to the order dated 9.3.2026 passed below Exhibit-146 by the Civil Judge S.D., Ahmedpur in R.C.S. No.7 of 2019, whereby the petitioner's application for framing the additional issues has been rejected.
2. The petitioner is defendant no.5 in the suit instituted by respondent no.1, claiming declaration that she is the first wife of Late Mohanrao Jayvantrao Jagtap and entitle for Family Pension. Petitioner filed written statement and contended that she is first wife of deceased. She is already receiving the pension being nominee of Mohanrao as per service book and claim of the plaintiff cannot be accepted in law.

3. In deference to pleadings of the parties, Trial Court framed issues below Exhibit-50. First issue reads that “as to whether plaintiff proves that she is legally wedded wife of deceased Mohanrao. Issue no.6 casts burden on petitioner/defendant no.5 to prove that she is first legally wedded wife of deceased. Issue no.5 also casts burden upon petitioner to prove that marriage of plaintiff with deceased Mohanrao was illegal and void. In the wake of aforesaid issues, petitioner filed an application below Exhibit-146 for framing of additional issues, which states as under :-

1. Whether the present suit for declaration without specifically seeking cancellation or setting aside of the existing pension order is maintainable in law ?
2. Whether the plaintiff is estopped by her conduct, acquiescence and delay from challenging the status of Defendant No.5 ?

4. The Trial Court, after considering rival contentions, observed that proposed issues by petitioner/defendant no.5 in her application does not arise in pleadings. Beyond that these are legal issues and they are already covered by entangling with the issues, which are already framed.

5. Having considered submissions advanced by the learned advocates appearing for respective parties and after going through the record tendered into service before this Court, it is discernible that respondent no.1 claims herself to be the first wife of deceased Mohanrao and claims right to receive the pension. It appears that family pension is already granted in favour of petitioner/defendant no.5. In light of the rival pleadings, the Trial Court has rightly framed in all 12 issues below Exhibit 50. The issue no.4 stipulates “whether plaintiff proves that defendant no.5 has falsely and illegally incorporated her name as wife of deceased in his family pension documents accordingly family pension was granted in her favour.?’

6. The aforesaid issue would cover all relevant aspects of the matter. Even otherwise, if plaintiff proves that she is the first wife, the law relating to grant of family pension would permit her to receive the pension. In case of such a declaration in her favour, employer is bound to take appropriate steps. Evidently, proposed issues need not be framed. Same would be indirectly answered in the issues, which are already framed by the Trial Court.

7. In that view of the matter, this Court finds no jurisdictional error in the order impugned. Hence, writ petition stands **rejected**. No costs.

(S. G. CHAPALGAONKAR, J.)

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aaa/f