

varsha

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO. 1438 OF 2004
WITH
INTERIM APPLICATION NO. 10455 OF 2025
WITH
SECOND APPEAL NO. 1439 OF 2004
WITH
INTERIM APPLICATION NO. 10460 OF 2025**

Shantabai Smabha Horgar @ ... Appellant/Applicant
Shantabai Laxman Deshmukh

vs.

Malanbai Laxman Deshmukh ... Respondent

Ms. J.S. Karnik h/f. Mr. H.V. Kode for the Appellant

CORAM : GAURI GODSE, J.

DATED : 20th FEBRUARY 2026

ORDER:

1. Learned counsel for the appellant submits that the newspaper publication of the notice, as per the order dated 8th January 2026 is done in four local newspapers. Two newspapers having wide circulation in Mumbai, and two having wide circulation in Daund, Pune. She submits that the supporting affidavit dated 10th February 2026, is e-filed. The original affidavit is tendered, and the same is

taken on record.

2. Despite the service, none appear in the matter claiming to be heirs and legal representatives of the deceased sole respondent. Both these applications are filed under Order XXII Rule 4(A) of the Civil Procedure Code, 1908, seeking appointment of an administrator or any other officer to represent the sole deceased respondent.

3. The suit filed by the appellant for declaration that the deceased respondent was not legally wedded wife of the deceased Laxman Deshmukh and for declaration that the succession certificate granted to the respondent was obtained by fraud was dismissed. Regular Civil Suit filed by the deceased respondent for the declaration that she was the legally wedded wife of the deceased Laxman and she has the right to claim service dues and family pension was decreed. The appellant had filed two separate first appeals challenging the decrees in both the suits. Both the first appeals are dismissed; hence, these two second appeals.

4. By the impugned decree, the deceased respondent is declared as the legally wedded wife of deceased Laxman. It is further declared that the deceased respondent was entitled to collect the service dues, if any, of the deceased Laxman along with

the pension benefits from the Central Railway Authority.

5. Despite the notice published in the newspapers, no party has filed an application in this second appeal claiming to be the heirs and legal representatives of the deceased respondent. The appellant has contended in the application that, the deceased respondent expired issueless, and she learnt about the death of the respondent in a family function. Hence, she obtained a certified copy of the death certificate. The appellant has filed an additional affidavit dated 23rd September 2025, stating that she made necessary inquiries and she learnt that the deceased respondent has no legal heirs or any representatives. In view of the aforementioned facts and circumstances, it is necessary to appoint an appropriate officer to represent the respondent's interest. Since, the issue involved in the second appeal pertains to the respective claims for seeking pensionary dues or service benefits of the deceased Laxman, the advocate from the High Court Legal Aid Committee can be appointed to represent the case of the deceased respondent.

6. Office is directed to appoint an appropriate advocate from the panel of the High Court Legal Services Committee to represent the case of the respondent.

7. Necessary steps be taken before the next date.
8. Interim applications are allowed in the aforesaid terms.
9. List the appeals under the caption for 'directions' on 9th March 2026.

(GAURI GODSE, J.)