



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**BENCH AT AURANGABAD**

**CIVIL REVISION APPLICATION NO. 28 OF 2026**

KAUSHALYABAI SHRIMANT KAPSE  
*VERSUS*  
RAMKAWAR SHRIMANT KAPSE AND OTHERS

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Advocate for the Petitioner : Mr. Ranjit Gaikwad h/f Mr. S. G.  
Kawade and Mr. A. S. Sakhare

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**CORAM : SACHIN S. DESHMUKH, J.**

**Date : 11<sup>th</sup> June, 2026**

**ORDER :-**

1. The present Civil Revision Application raises a challenge to the order dated 29.04.2025 rendered by the learned Civil Judge Junior Division, Dharur, District Beed, below Exhibit 1 in Miscellaneous Civil Application (MCA) No. 397 of 2022. By the order under challenge, the Trial Court partly allowed the application for a Legal Heirship Certificate presented by Respondent Nos. 1 and 2, declaring Respondent Nos. 1 to 9 as the legal heirs of the deceased Shrimant.

2. The learned counsel for the applicant submits that the Shrimant Dadarao Kapse, died on 26.09.2022. It is contended that the applicant is the second wife of the deceased, their marriage



having been solemnized long back and out of the said wedlock, five sons (respondent Nos. 5 to 9) are born. The learned counsel further submits that Respondent No. 1 was the first wife of the deceased, however, having divorced with the deceased prior to his marriage with the applicant. Respondent No. 2 is the daughter born out of the first wedlock. The applicant alleges that Respondent Nos. 1 and 2 filed M.C.A. No. 397 of 2022 solely to pocket the pensionary benefits of the deceased.

3. Records indicate that upon receiving notice of the heirship proceedings before the Trial Court, the present applicant appeared and contested the matter. After evaluating the evidence and hearing both sides, the learned Trial Court partly allowed the application, recognizing the contesting respondents as legal heirs, leading to file the present revision.

4. Upon considering the submissions of the learned counsel and perusing the material available on record, the admitted fact is that the applicant claims to be married to the deceased during the lifetime and subsistence of his earlier ties, positioning her as the second wife. Under the provisions of Section 5(i) read with Section 11 of the Hindu Marriage Act, 1955, any marriage



solemnized while a previous spouse is living is null and void ab initio. Even if the assertion of a prior divorce between the deceased and Respondent No. 1 is taken into consideration, the applicant has failed to produce a valid, legally recognized decree of dissolution of marriage passed by a competent court of law to establish that the first marriage was legally dissolved before the claimed marriage of the applicant.

5. Consequently, the status of the applicant remains that of a second wife whose marriage lacks legal sanctity. Under the Hindu Succession Act, 1956, a second wife whose marriage is void does not qualify as a "widow" under Class-I of the Schedule and, therefore, cannot claim the status of a legal heir to the estate or pensionary benefits of the deceased husband.

6. Conversely, the status of the children born from such a wedlock (Respondent Nos. 5 to 9) remains protected as legitimate under Section 16 of the Hindu Marriage Act, 1955 and their right to be declared legal heirs alongside the first family cannot be denied. The Trial Court has considered these aspects while passing order under challenge.



7. In view of the above, I find no error, perversity or illegality in the order passed by the learned Civil Judge Junior Division, Dharur is noted. As such, no case is made out to warrant interference in the impugned order.

8. Resultantly, the Civil Revision Application, being entirely devoid of merits, is hereby **dismissed**.

**(Sachin S. Deshmukh, J.)**

*Omkar Joshi*