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

WRIT PETITION NO. 3516 OF 2009

MAHAVEER PAPER PRODUCTS PVT LTD  
VERSUS  
SHAMRAO JANUJI SARKATE AND ORS

...

Advocate for Petitioner : Mr.M N Deshmukh.

AGP for Respondent Nos.4 and 5: Mr.S.M.Jadhav.

...

**CORAM: RAVINDRA V. GHUGE, J.**

**DATE :- 28<sup>th</sup> July, 2015**

Per Court:

1 Notice was issued by this Court on 16.06.2009. It was directed that no coercive steps should be taken against the Petitioner.

2 By order dated 08.03.2011, this Court had directed the Petitioner to take steps as against the deceased Respondent No.1 within six weeks and bring the legal heirs on record failing which the petition would be abated as against Respondent No.1.

3 By order dated 17.06.2011, time was extended by ten weeks. No steps were taken and therefore, the petition stood abated as against the deceased Respondent No.1 on 10.12.2013.

4           Thereafter, the petition was dismissed as against Respondent Nos.2 and 3. By order dated 12.06.2015 passed in Civil Application No.4897/2014, the Petitioner was permitted to serve Respondent Nos.2 and 3 by paper publication. Accordingly, by paper publication dated 23.06.2015 the notice to Respondent Nos.2 and 3 was published in daily "Sakaal", Aurangabad Edition.

5           None have entered an appearance for Respondent Nos.2 and 3. The learned AGP appears on behalf of Respondent Nos.4 and 5.

6           I have heard Shri Deshmukh, learned Advocate for the Petitioner. The judgment of the Industrial Court dated 14.10.1994 delivered in Complaint (ULP) Nos.302/1989, 303/1989 and 304/1989 has been challenged in this petition. The said judgment was not called in question for 15 years till this petition was filed on 09.04.2009.

7           The contesting Respondent Nos.2 and 3 are workmen. Respondent No.1 has already passed away and his legal heirs have not been brought on record by the Petitioner. Considering the delay caused, I am not entertaining this petition to the extent of the challenge posed by the Petitioner as against the impugned judgment dated 14.10.1994

delivered by the Industrial Court.

8           The Petitioner has also assailed the judgment of the Labour Court dated 30.11.2004 delivered in Application (IDA) No.18/1996. This application was filed by an individual workman, namely, Shamrao Januji Sarkate who had claimed recovery of money due from the Employer under Section 33(C-2) of the Industrial Disputes Act, 1947 to the extent of Rs.3,39,288.43.

9           Considering the prayer clause (C) of this petition and the fact that Shamrao Januji Sarkate has passed away and this petition to the extent of deceased Shamrao has abated, no cause of action survives in this petition.

10          The Writ Petition is, therefore, dismissed.

**(RAVINDRA V. GHUGE, J.)**