

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

Civil Revision Application No. 176 of 2015

Maruti S/o Dagdu Pabale. .. **Applicant.**

Versus

Satyabhamabai Abaji Kharade. .. **Respondent.**

Shri. S.B. Bhapkar, Advocate, for applicant.

CORAM: T.V. NALAWADE, J.

DATE : 8th DECEMBER 2015

ORDER:

1) The present proceeding is filed to challenge the order made by the Civil Judge, Junior Division, Karjat in Regular Civil Suit No.176/2008. Heard learned counsel for the applicant.

2) The suit was filed by the present applicant against one Satyabhamabai Kharade. Some so called legal representatives appeared in the matter and they submitted that Satyabhamabai died in the year 1989 and so the suit filed in the year 2008 was not tenable in law. It appears that inquiry was made to find out as to whether Satyabhamabai was alive on the date of the suit. During inquiry the so called legal representatives examined some

witnesses who include relatives of Satyabhamabai. They gave substantive evidence that Satyabhamabai died in the year 1989 and the funeral was attended by them. There is also bailiff report to show that she was dead and so summons could not be served. Thus on one hand substantive evidence is there though there is nothing on the record like death certificate or entry made in the Births and Deaths Register, but other side, the plaintiffs did not give any substantive evidence by examining any witness who could have knowledge and who could have given evidence that they saw Satyabhamabai alive on the date of the suit.

3) In view these circumstances the trial Court held that provisions of Order 22 Rule 4 of Civil Procedure Code cannot be used to bring the legal representatives of the of deceased on the record as she was dead on the date of suit and the suit is disposed of. No interference is possible in the order. In the result, the civil revision application stands dismissed.

Sd/-
(T.V. NALAWADE, J.)

rs1