

IN THE HIGH COURT OF BOMBAY AT GOA

MISC.CIVIL APPLICATION NO. 896 OF 2014

IN

SECOND APPEAL NO. 5 OF 1998

SHRI BARKELO APA GURAV (SINCE
DEC.) REP. BY HIS LEGAL
REPRESENTATIVES.

... Applicant

Versus

ANANT YESHWANT PARYEKAR AND 6 ORS.

... Respondent

Ms M. Furtado, Advocate for the Applicants.

Mt. K. Padgaonkar, Advocate for the Respondents 1A to 1E.

Coram:- M. S. SANKLECHA, J.

Date:- 30th March, 2015

P.C.:

This application has been taken out by the applicant to alter/ amend the title of second appeal no.5/1998, this is to rectify the technical defect which has occurred in the proceedings, by not bringing on record the legal representatives of the deceased respondent no.1.

2. Mr. Padgaonkar, learned counsel appearing for the legal heirs of respondent no.1 waives service. He further states that he has no objection to the cause title being amended to bring the names of legal representatives of respondent no.1 on record.

3. The applicants state that by the order dated 3/8/2009, this Court dismissed the appellant's appeal bearing no.5/1998 filed against the

decree dated 19/9/1997 passed by the learned Addl. District Judge, North Goa. During the pendency of the second appeal, the respondent no.1 died on 22/3/2001. The applicants were not aware of his death, consequently, no steps were taken to bring the legal heirs of respondent no.1 on record. It was only after the order dated 3/8/2009 was passed by this Court and the applicant preferred a SLP to the Supreme Court and while seeking to effect service on the respondents, they discovered that respondent no.1 had died on 22/3/2001 during the pendency of the second appeal.

4. In view of the above and particularly taking into account that the legal heirs of respondent no.1 have no objection to be added as party respondents to the second appeal no.5/1998, the civil application is allowed in terms of prayer clause "a".

M. S. SANKLECHA, J.

ap/-