

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.570 OF 2014

IN

WRIT PETITION NO.3508 OF 2012

Raishi Shivji Chheda.	]	... Petitioner/ (Original Defendant)
Versus		
Dhirajlal Raishi Chheda.	]	... Respondent (Original Plaintiff)
And		
Mithiben Raishi Chheda.	]	... Applicant/ (Proposed Petitioner)
And		
Mukesh Raishi Chheda.	]	... Applicant/ (Proposed Petitioner)

WITH

CIVIL APPLICATION NO.571 OF 2014

IN

WRIT PETITION NO.3511 OF 2012

Raishi Shivji Chheda.	]	... Petitioner/ (Original Defendant)
Versus		
Dhirajlal Raishi Chheda.	]	... Respondent (Original Plaintiff)
And		
Mukesh Raishi Chheda.	]	... Applicant/ (Proposed Petitioner)

Ms. Kenny Thakkar a/w Mr. Abhinav Chandrachud for Applicants in both Civil Applications.

Mr. V. Y. Sanglikar a/w Mr. Devidas H. Keluskar for Respondents in both Civil Applications.

CORAM :- M. S. SONAK, J.

DATE :- AUGUST 26, 2015

P. C. :-

1. These two Civil Applications seek leave to bring on record some of the legal representatives of the deceased sole Petitioner. There is delay of 159 days and therefore, there are prayers of condonation of delay and setting aside of abatement.

2. Mr. V. Y. Sanglikar, learned Counsel for Respondent, who is Plaintiff in the two suits before the Trial Court, points out that in one of the suits, only the deceased Petitioner's wife Mithiben has come on record as legal representative and in the other suit, 4 legal representatives have been permitted to be brought on record and as such, there would be anomaly if the Civil Applications are allowed. Further, Mr. Sanglikar pointed out that the legal representatives seek to set out some independent right in themselves and that is impermissible. Finally, Mr. V. Y. Sanglikar points out that there is delay of 159 days which has not at all been explained. Therefore, according to Mr. Sanglikar, for all the aforesaid reasons, these Civil Applications ought to be dismissed.

3. This two petitions basically seek a direction that the Trial Court should make a reference to this Court under the Contempt of Courts Act, 1971. In these circumstances, there is no question of declining leave on the grounds urged by Mr. Sanglikar. Admittedly, original Petitioner has expired and the Applicants, who now seek to come on record, are the legal representatives of the original deceased Petitioner. There is sufficient cause shown for the delay. In any case, it is doubtful whether Writ Petitions of this nature abate, if legal representatives are not brought on record within the period prescribed.

4. Upon cumulative consideration of all the aforesaid facts and circumstances, the Civil Applications are allowed in terms of prayer clauses (a), (b), (c), and (d). Necessary amendment to be carried out within a period of four weeks from today.

5. Civil Applications are disposed of.

(M. S. SONAK, J.)