

4. The challenge in this petition is to the order dated 27/07/2015 below Exh.30 by which the Appeal Court has declined to extend the time for carrying out amendment permitted by order dated 21/02/2014 to bring on record the legal representatives of deceased Smt. Manoramabai Sitaram Vengurlekar.

5. Admittedly, by order dated 21/02/2014, during the pendency of the appeal, the petitioners were permitted to bring on record the legal representatives of the deceased appellant i.e. Smt. Manoramabai Sitaram Vengurlekar. However, for a period of 1.1/2 years, the amendment remained to be carried out in the cause-title. The parties, however, proceeded with the matter under the mistaken belief that such amendment had already been carried out. The matter was argued and at the stage when it was part-heard, it was realized that the formal amendment has not been carried out. Accordingly, leave was applied for to extend time and carry out the amendment. The leave has been declined by the impugned order.

6. Although there is some negligence on the part of the petitioners, the order declining leave is too harsh and disproportionate. This is not a case where any serious prejudice can be said to have been occasioned to the respondents. The respondent nos.2 to 7 are stated to be appearing before the Appeal Court but supporting the case of respondent no.1. The matter had proceeded on the basis that the necessary amendment had been carried out. In such circumstances, the ends of justice would be met if the impugned order

is set aside and the petitioners are granted leave to carry out the formal amendment. This shall obviously be subject to payment of costs of Rs.5,000/- (Rupees Five Thousand Only) to the respondent no.1.

7. Rule is accordingly made absolute in this petition and it is ordered as follows :-

- (a) The impugned order dated 27/07/2015 is set aside;
- (b) The petitioners to carry out amendment to the appeal memo within a period of two weeks from today;
- (c) The petitioners to pay costs of Rs.5,000/- (Rupees Five Thousand Only) to the respondent no.1, also within a period of two weeks from today.

8. In the event the costs are not paid within two weeks from today, this petition shall be deemed to have been dismissed.

9. All concerned to act on basis of authenticated copy of this order.

(M. S. SONAK, J.)