

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.7280 OF 2014

Dileep Nanikram Khatwani

: Petitioner.

Versus

**Ulhasnagar Municipal Corporation
Through the Commissioner**

: Respondent.

Mr. J M Puranik for the Petitioner.

Mr. S M Kamble for the Respondent.

CORAM : R. M. SAVANT, J.

DATE : 26th October 2015

P.C.

1 The writ jurisdiction of this Court is invoked against the order dated 10/07/2013 passed by the learned 4th Joint Civil Judge, Junior Division, Ulhasnagar by which order the applications (Exhibits 47 and 48) came to be rejected.

2 In so far as the application (Exhibit 47) is concerned, the same is filed for condonation of delay in filing the application for bringing the heir of the Plaintiff on record and in so far as the application (Exhibit 48) is concerned, the same was filed for bringing the heir of the Plaintiff on record.

2 It is required to be noted that the Plaintiff all along remained

present in the Trial Court. The Plaintiff, it seems, expired on 29/05/2010 and the instant application was filed on 06/03/2013 and the reasons if any which can be found in the application (Exhibit 47) is that the heir of the Plaintiff was not aware of the fact that the heirs are to be brought on record.

3 The Trial Court has rejected the application (Exhibit 47) on the ground that the advocate for the Plaintiff was very well aware of the death of the Plaintiff on 29/05/2010, however, in spite of the same, though the suit had appeared before the Trial Court on numerous dates, the advocate for the Plaintiff had not informed the Trial Court of the death of the Plaintiff. The reasons if any mentioned in the application (Exhibit 47) did not commend acceptance to the Trial Court.

4 It is required to be noted that in the suit it has been mentioned by the Plaintiff in paragraph 16 that the Respondent Municipal Corporation has demolished the portion of the suit shop and constructed the drain and footpath. The Plaintiff by the instant suit is seeking relief that the Respondent Municipal Corporation be directed to remove the drain and footpath and restore the portion of the suit shop of the Plaintiff.

5 In my view, having regard to the reasons mentioned in the impugned order, as also considering the scope of the suit, no case for

interference in the writ jurisdiction of this Court is made out. The above Writ Petition is accordingly dismissed.

[R.M.SAVANT, J]