

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
CIVIL APPLICATION NO. 2522 OF 2015
IN SA/93/2003**

**MOHD. WALIUDDIN GULAM MOHIUDDIN & ORS.
VERSUS
APPANNA MALIKARJUNAPPA ALURE & ORS.**

...
Advocate for Applicant : A N Ansari
Advocate Mr. V C Solshe For R/1B, 1C, 1E, 1F & 1G

...

CORAM : SUNIL P. DESHMUKH,J.

DATED : 29TH JANUARY,2016

PER COURT :-

Heard learned counsel for the parties.

2] Learned counsel Mr.Solshe for respondents contends that before this application had been filed, there were two applications already filed and it cannot be said that the applicants were not in a position to contact the lawyers. This apparently is not a case wherein the applicants can be said to be coming to the Court very cleanly.

3] Learned counsel Mrs.Ansari appearing for the applicants however, states that these applications were filed by appellant no.1 The applications filed for bringing legal heirs of appellant no.4 by him could not succeed for the reason that in one there had been no death certificate annexed and in the other there were technical flaws. He

did not pursue the matter after lodging the applications.

4] Death certificate could be secured by present applicants who are legal representatives of deceased respondent no.4 in November, 2014. She further submits that present application has been filed by proposed legal heirs of deceased appellant no.4 and as such ,it cannot be stated that there is no substance in respect of contention that the applicants could not contact the advocate. Application is proper application having regard to the facts.

5] Having regard to that it is not case that there had not been any attempt at all to bring legal heirs of respondent no.4 on record. While attempts could not succeed for want of death certificate and on technicalities, subsequently after obtaining the same, the application has been filed. In these circumstances application deserves consideration instead of pricking holes.

6] As such having regard to the explanation coming forth on behalf of applicants, application is allowed in terms of prayer clauses "B" and "C" and disposed of.

(SUNIL P. DESHMUKH,J.)

umg/