

IN THE HIGH COURT OF BOMBAY AT GOA

MISC.CIVIL APPLICATION NO. 201 OF 2016

IN

SECOND APPEAL NO. 109 OF 2014

MRS. JOAQUINA BORGES AND 3 ORS., ... Applicants
Versus
MS. ANTONIA BORGES ALIAS ANTONETA
BORGES (SINCE DECEASED) THR. HER ... Respondents
LEGAL REP. AND 11 ORS.,

Ms. Rosette Pereira, Advocate for the Applicants.
Mr. S. Redkar, Advocate for Respondents No.5,6 & 7.
Mr. Ashwin Costa, Advocate for Respondents No.12(a), 12(c) & 12(d).

Coram:- F. M. REIS, J.

Date:- 1st April, 2016

P.C.:

This is an application to bring the legal representatives of respondents no.2 & 3 on record.

2. It is pointed out by the learned Counsel appearing for the applicants that the respondent no.2 died during the interregnum after the decree came to be passed by the Lower Appellate Court and before the above appeal was filed before this court. It is also submitted that the applicants learnt about the death of the respondent no.2 only in January, 2016 and the application was filed immediately thereafter in February, 2016. The learned Counsel further pointed out that as far as the respondent no.3 is concerned, the application is

within time as respondent no.3 expired in the year 2015.

3. The learned Counsel appearing for the respondents no.5,6 & 7 has no objection.

4. The learned Counsel appearing for respondents no.12(a), 12(c) & 12(d) has strongly objected to the above application. The learned Counsel pointed out that the burial certificate discloses that such certificate was obtained way back in May, 2015 and the application was filed only in February, 2016 which is grossly belated. The learned Counsel further pointed out that there was no sufficient cause shown by the applicants to justify such delay and, as such, the application be rejected.

5. I have considered the submissions of the learned Counsel and I have also gone through the records. It is not disputed that the respondent no.2 expired only after the impugned judgment came to be passed by the Lower Appellate Court and the application was filed only after the applicants learnt about the death of respondent no.2 & 3 in January, 2016. The said fact has been clearly stated in para 7 of the application. On perusal of the reply filed by the respondents, I find that there is no specific denial to the averments therein. Apart from that there are no malafides attributed by the applicants in filing such application. It is well settled that the Court should have a justice oriented approach while examining the application for

condonation of delay. Hence, I find no reason to refuse said application. Hence, the delay in filing such application stands condoned. The legal representatives of the deceased respondents no.2 & 3, as prayed for, are directed to be brought on record.

6. Application stands disposed of. Amendment to be carried out within one week.

F. M. REIS, J.

NH