

IN THE HIGH COURT OF BOMBAY AT GOA

MISC.CIVIL APPLICATION NO. 648 OF 2015

IN

STAMP NUMBER MAIN NO. 2572 OF 2014

VIDA CALMA HOMES PVT. LTD. REP ITS
MANAGING DIRECTOR MR. ROY PATRAO.

... Applicant

Versus

MRS. LYRA C. VAIDYA NEE RODRIGUES
AND 4 ORS.,

... Respondents

Mr. Ashwin D. Bhobe, Advocate for the Applicant.
Mr. V. Braganza, Advocate for Respondent No.1.

Coram:- F. M. REIS, J.

Date:- 29th January, 2016

P.C.:

Heard Mr. A.D. Bhobe, the learned Counsel appearing for the applicant and Mr. V. Braganza, the learned Counsel appearing for the respondent no.1.

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

3. It is pointed out that the respondent no.2 who is the wife of the respondent no.3 and is already on record. As such, there is no abatement of the proceedings. But, however, the applicant desires to implead the legal representatives/children of the said deceased respondent no.3.

4. The learned Counsel appearing for the respondent no.1, however, submits that he has not been served with the copy of such

application.

5. On perusal of the records, it appears that the learned Counsel appearing for the respondent no.1 had filed appearance on behalf of the respondent no.1 way back in March, 2015. The records reveal that thereafter the matter has been taken up on order Board on at least four or five occasions and no grievance on that count was raised by the learned Counsel for the respondent no.1. As such, I find that such objection is only to delay the matter on untenable grounds. Considering that the wife is already on record and it is now well settled that the wife being a moiety sharer is the inter-meddler in the estate of the deceased husband, the question of there being any abatement of the appeal would not arise at all. It is also pointed out that the applicants learnt about the death of the respondent no.3 only after the notice was issued to the deceased respondent. Hence, the application is allowed. The legal representatives of the deceased respondent no.3 are ordered to be brought on record. Amendment to be carried out within one week. Application stands disposed of.

6. Issue notice to the newly added legal representatives returnable on 18/02/2016.

F. M. REIS, J.

NH