

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

**CIVIL APPLICATION NO.908 OF 2015
IN
WRIT PETITION NO.11201 OF 2012**

Bhuvneshwar Swarup Bhatnagar	: Applicants/
(since deceased)	: Proposed Petitioners
Asha Bhuvneshwar Bhatnagar and anr.	
versus	
The State of Maharashtra and ors.	: Respondents.
And	
Gauri Getu Modi	: Proposed Proforma Respondent.

Mr. P S Dani, Senior Advocate a/w Ms. Krishna Raja i/by LJ Law for the Applicants.

Mr. G W Mattos, AGP for the Respondent Nos. 1 to 3.

Mr. Advait Sethna a/w Ms. Nafisa Khandeparkar and Ms. Savita Nangare i/by ALMT Legal for the Respondent No.4.

CORAM : R. M. SAVANT, J.

DATE : 10th March 2016

P.C.

1 The above Civil Application has been filed for bringing the heirs of the Petitioner who are the Applicant Nos.1(A) and 1(B) and the proposed Respondent, Gauri Getu Modi. In so far as the said Gauri Getu Modi is concerned, the Applicants seek to join her as Respondent No.5 as she is not available for signing the vakalatnama. However in the course of hearing of the above Civil Application, the learned Senior Counsel appearing for the Applicants Shri P S Dani stated that he would not press the application in so far as the said Gauri Getu Modi and would file an application later on if the need

so arises and if the said Gauri Getu Modi is available for signing vakalatnama. Hence for the present the above Civil Application is restricted to bringing the Applicants on record as the heirs of the original Petitioner.

2 An affidavit in reply has been filed on behalf of the Respondent No.4 which is a Trust and is the landlord of the property in question wherein the premises in question are situated. Various contentions are sought to be raised whilst opposing the relief sought by way of the above Civil Application. However, the said contentions are revolving around the entitlement of the Applicants to the benefit that would arise out of the above proceedings which have been filed for challenging the order passed by the Appellate Authority.

3 It is required to be noted that the Applicants are the wife and daughter of the original Petitioner which fact is sought to be disputed by the learned counsel appearing for the Respondent No.4 Trust. However as indicated above the dispute raised appears to be as regards the entitlement of the Applicants to succeed to the premises in question if ultimately the proceedings result in success to the Petitioner. In my view, in the absence of any contra material to indicate that the Applicants are not the wife and daughter of the original Petitioner, the above Civil Application would have to be allowed and is accordingly allowed. Amendment to be carried out within three weeks from date. Needless to state that the contentions on merits as

regards entitlement of the Applicants are kept open for being urged at the hearing of the above Petition. List the above Petition for directions on 28/04/2016 along with connected Writ Petitions. The above Civil Application is accordingly disposed of.

[R.M.SAVANT, J]