

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.2312 OF 2015
IN
WRIT PETITION NO. 633 OF 2001**

Smt. Vimal Atmaram Karale & Ors.

..Applicants

Vs.

Shankar Nama Karale & Ors.

..Respondents

**WITH
CIVIL APPLICATION NO.2683 OF 2015
IN
WRIT PETITION NO. 633 OF 2001**

Shankar Nama Karale & Ors.

..Applicants

Vs.

**Kacharu Ganpat Gaikwad (deceased)
by heirs & Ors.**

..Respondents

**WITH
CIVIL APPLICATION NO.1332 OF 2014
IN
WRIT PETITION NO. 633 OF 2001**

Atmaram Nama Karale

..Applicant

Vs.

**Kacharu Ganpat Gaikwad (deceased)
by heirs & Ors.**

..Respondents

Mr. Nitin Gangal for the Applicants

**Mr. Siddhesh Pilankar i/b Mr. Uday Warunjikar for the Respondent Nos.1,
2, 4, 5, 6 & 7**

Mrs Anushka Amin i/b Mr. S.D.Patil for the Respondent No.3

Mr. S. D. Rayrikar for the Respondent No.9

**CORAM : R. M. SAVANT, J.
DATE : 14th MARCH, 2016**

P.C.

1 The above Civil Application No.2312 of 2015 has been filed for bringing the heirs of the Petitioner No.4-Atmaram Karale on record in the Civil Application for restoration filed by Atmaram Karale and Civil Application No.2683 of 2015 has been filed by the Petitioner Nos.1 to 3 for restoration of the above Petition. It seems that the Civil Application No.1332 of 2014 has been filed by Atmaram Karale in his life time for restoration of the above Writ Petition which has stood dismissed for non prosecution on 6-2-2013. The said Civil Application No.1332 of 2014 was filed seeking the relief only in so far as the Applicant i.e. the Petitioner No.1 Atmaram Karale is concerned, as it seems that the relations between the parties i.e. all the Petitioners were strained at the relevant time. After filing of the above Civil Application, the said Atmaram Karale expired and therefore the above Civil Application No.2312 of 2015 has been filed for bringing his heirs on record.

2 The Learned Counsel Mr. N. V. Gangal states that he is appearing for all the Petitioners i.e. the Petitioner Nos.1 to 3 as well as the heirs of the said Atmaram Karale and the Petitioner Nos.1 to 3 have no objection to the heirs of the said Atmaram Karale being made part of Civil Application No.2683 of 2015. The Learned Counsel further states that in the said eventuality he would not be pressing Civil Application No.1332 of 2014 which was filed by the said Atmaram Karale.

3 In so far as the Civil Application No.2312 of 2015 is concerned, there is a delay of about 11 days in filing the said Civil Application and in so far as the Civil Application No.2683 of 2015 is concerned there is a delay of 1 year and 1 month in filing the said Civil Application.

4 The Learned Counsel for the Respondent Nos.1, 2, 4, 5, 6 & 7 and the Learned Counsel for the Respondent No.3 opposes the above Civil Application for restoration and questions the reasons mentioned in the same but ultimately leave it to this Court.

5 Having regard to the fact that the Writ Petition was pending hearing and final disposal and was in fact dismissed for default when it was so listed for final hearing, in my view, it would be just and proper to allow the Civil Application No.2312 of 2015 and Civil Application No.2683 of 2015. In so far as Civil Application No.2683 of 2015 is concerned, the Learned Counsel for the Applicants is granted leave to amend so as to incorporate the names of the heirs in the said Civil Application. Amendment to be carried out forthwith in the said Civil Application. The Civil Application No.2312 of 2015 and Civil Application No.2683 of 2015 are accordingly disposed of. The Applicants to pay total costs of Rs.1000/- to the Respondent Nos.1, 2, 4, 5, 6 & 7 and Rs.1000/- to the Respondent No.3 within two weeks from date. Amendment in

the above Writ Petition to be carried out within 4 weeks from date. List the above Writ Petition for final hearing after the ensuing summer vacation.

6 In so far as the Civil Application No.1332 of 2014, the same to stand disposed of as having turned infructuous.

[R.M.SAVANT, J]