

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.2527 OF 2016
IN
WRIT PETITION NO. 150 OF 2003**

Nivrutti Gopal Ghadhve (deceased) through LRS ..Applicants

In the matter between

Cummins (India) Ltd. ..Petitioner

Vs.

Nivrutti Gopal Ghadhve ..Respondent

Mr. P. M. Patel for the Applicants

**Mr. Anand Pai a/w Mr. A. K. Gopalan i/b M/s. Haresh Mehta & Co. for the
original Petitioner**

CORAM : R. M. SAVANT, J.

DATE : 30th SEPTEMBER, 2016

P.C.

1 The above Civil Application has been filed by the original Respondent for the relief that the above Petition be dismissed as having abated. The said relief is sought on the basis that the Applicant / original Respondent Nivrutti Ghadhve has expired in the year 2006 and inspite of knowledge the heirs of the said Respondent have not been brought on record. To this the Learned Counsel appearing on behalf of the original Petitioner states that a Civil Application was filed in the year 2008 by the original Respondent Nivrutti Ghadhve seeking expeditious hearing of the above Petition whereas by the above Civil Application a totally contrary relief is sought. The Learned Counsel further states that the status report on the High

Court Website indicates that the said Civil Application is as yet pending. However, no CMIS date is shown against the said Civil Application.

2 Upon this the Learned Counsel appearing for the Applicants Mr. Patel states that the said Civil Application in fact was filed in the year 2004 by the original Respondent whilst he was alive. The Learned Counsel further states that he is not aware as regards the status of the said Civil Application.

3 The case urged on behalf of the original Petitioner by Mr. Pai that steps were not taken to bring the heirs on record for the aforesaid reasons therefore commends acceptance. In my view, since it is now clear that the original Respondent Nivrutti Ghadhave has in fact expired, the original Petitioner M/s. Cummins (India) Ltd. are required to bring his heirs on record. The Learned Counsel appearing on behalf of the original Respondent / his heirs may give the names of all the heirs of the said Nivrutti Ghadhave to the Advocates for the Original Petitioner within one week from date. On such names being furnished to the Advocates for the original Petitioner, the Learned Counsel would carry out the amendment in the cause title of the Petition within two weeks thereafter. Since the Petition is of the year 2003 and since the Award passed in a Reference is under challenge, it would be just and proper to direct the Petition to be placed for final hearing in January 2017. The Civil Application is accordingly disposed of.

[R.M.SAVANT, J]