

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CIVIL APPLICATION (S) NOS.1167 OF 2014, 1168 OF 2014 AND 1169 OF 2014
IN
CIVIL APPLICATION (CAS) NO. OF 2014
IN
SECOND APPEAL ST. NO.11240 OF 2014 (SA NO.444 OF 2014)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri M. P. Khajanchi, Advocate for the appellant.
Shri Rohit Joshi, Advocate for respondent No.1

CORAM : A.S. CHANDURKAR, J.
DATED : APRIL 27, 2016.

By these applications, it is prayed that the abatement of the proceedings in so far as the appellant No.1 – Patru is concerned be set aside by condoning the delay and permitting his legal representatives to be brought on record. It is stated that the appellant No.1 died on 7-3-2007 when Regular Civil Appeal No.42 of 2006 was pending before the appellate Court. It is further stated in the application that the said appeal had been filed by Patru along with his two brothers. The surviving brothers were of the view that the proceedings could be continued by them despite the death of Patru.

The applications are opposed by the learned Counsel for the respondent No.1. It is submitted that as the appellant No.1 expired during the pendency of the appeal before the appellate Court, the entire proceedings would abate. It is further submitted that the reasons assigned for the delay are not sufficient.

Considering the fact that the appeal before the first appellate Court was filed by Patru and his two brothers, it cannot be said that the failure to bring on record the legal representatives of said Patru is deliberate. However, by keeping objection raised on behalf of the respondent No.1 on the aspect with regard to abatement of the appeal as a whole, the applications are allowed.

Necessary amendment in the cause title be carried out within a period of one week from today. It is made clear that though these applications are allowed, the objection raised by the respondent No.1 on the question of abatement of the appeal as a whole is kept open.

The civil applications are allowed and disposed of.

JUDGE

/MULEY/