

**IN THE HIGH COURT OF JUDICATURE
AT BOMBAY**

BENCH AT AURANGABAD.

WRIT PETITION NO.7037 OF 2013

Sitaram S/o Chindha Patil
and others. ... Petitioners.

Versus

Sitaram S/o Motiram Patil
(deceased) through his G.P.A.
and another. ... Respondents.

...
Mr.P.B.Patil, advocate for petitioners.
Mr.M.M.Nerlikar, A.G.P. for the State.
None for Respondent No.1.
...

CORAM : S.V.GANGAPURWALA J.

Date : 28.08.2017.

PER COURT :

1. Mr.Patil, learned counsel submits that application for bringing on record the legal heirs was belatedly filed. The procedure was not followed. The application was not within limitation. Objection taken by the petitioners is rejected.

2. Heard learned A.G.P.

3. It is trite that abatement has to be strictly construed and setting aside abatement has to be liberally construed.

4. Whether the execution filed is within limitation or not is not an objection raised. It is for the petitioners to raise all objections to the execution. The authority was only considering application for bringing on record the legal heirs. The said application it appears has been allowed. The said application was filed after lapse of about 8 months.

5. It would be seen that the said application was filed in execution. It would appear that provision of Rule 3,4 and 8 of Order 22 Rule 12 of the C.P.C. does not apply to execution proceedings.

6. Considering above, no case for interference. The Writ Petition is disposed of.

No costs.

(S . V . GANGAPURWALA, J .)

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