

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

911 FIRST APPEAL NO. 2218 OF 2016
WITH CA/14164/2012 IN FA/2218/2016 WITH CA/13413/2015 IN
FA/2218/2016 WITH CA/13412/2015 IN FA/2218/2016

RAMJI LAXMAN DASARWAD
VERSUS
SURYAKANT KHANDERAO SUNGAMKAR AND ORS

...
Advocate for Appellant : Mr. A.A. Shelke h/f Mr. P.D. Suryawanshi
AGP for respondent : Mr. S.P. Sonpawale

CORAM : K.K. SONAWANE, J.

DATE : 8th August, 2017.

PER COURT:

1] Heard learned counsel for the respective parties.

2] It has been submitted that C.A. No. 13412 of 2015 is pending since long for requisite order after death of the appellant. The death certificate is also appended with the application. It reveals that the appellant Ramji s/o Laxman Dasarwad, is no more and passed away on 7.11.2013.

3] Learned counsel for the applicant fervidly submits that he attempted to contact the appellant but all efforts found unavailing. In such circumstances, he prayed to issue notice to the appellant. It is strange to appreciate that as the appellant is no more and his death certificate is filed on record on behalf of the respondents, how notices are to be issued to the appellant, at the behest of learned counsel Shri P.D. Suryawanshi.

4] It would be reiterated that the present application is pending since October, 2015. The matter pertains to Bombay Public Trust Act. In

such circumstances, there is no propriety to keep the matter alive on board for further process. It would be an futile effort in view of the death of the appellant, who was one of the trustees of the concerned institution. Therefore, the proceeding stands abated. Needless to mention that interim orders, if any, stand vacated automatically.

5] Learned counsel for the intervenor produced a letter issued to the intervenor dated 24.7.2017 showing his inability to argue the matter for want of instructions. However, he submits that in view of nature of subject matter, the intervenor be allowed to step into the shoe of the deceased.

6] Taking into consideration the attending circumstances and the fact that the dispute pertains to the change report, there is no propriety to allow another trustee of the institution to pull on the litigation filed by deceased trustees for redressal of his own grievances. In such circumstances, the permission to intervene in the present appeal, already abated for death of appellant cannot be entertained. Hence, the application for intervention stands rejected.

[K.K. SONAWANE]
JUDGE.

grt/-