

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

**CIVIL APPLICATION NO.11748 OF 2016
IN
SECOND APPEAL NO.26 OF 2014**

Baldevdas Chhaganlal Gujrathi,
Age : 69 years, Occ. Agri.,
r/o. Betawad,
Tq. Sindhkheda,
Dist. Dhule ..Applicant

Vs.

Krushnadas Chhaganlal Gujarathi,
Age : 74, occ. Agri.,
r/o. Betawad,
Tq. Sindhkheda, Dist.Dhule
and others ..Respondents

--

Mr.G.S.Patil, Advocate for applicant
Mr.R.R.Mantri, Advocate for respondent no.1

--

**CORAM : SANGITRAO S. PATIL, J.
DATE : JULY 24, 2017**

PER COURT :

The applicant/appellant has prayed for setting aside the order dated 02.09.2015 passed by the learned Registrar (Judicial), whereby the appeal against respondent no.1, who expired on 20.05.2015, has been ordered to be abated.

2. The learned Counsel for the applicant submits that the deceased respondent no.2 – Sulochana was the wife of the deceased respondent no.1. The legal representatives of the deceased respondent no.2 have been already brought on record. They are the legal representatives of the deceased respondent no.1 also. Since the legal representatives of the deceased respondent no.1 were already on record, the appeal was not liable to be treated as abated against respondent no.1. He, therefore, prays that the impugned order may be set aside.

3. The learned Counsel for respondent no.1 opposes the application.

4. The legal representatives of the deceased respondent no.1 are respondent nos.2-A to 2-F, who are already on record. Consequently, there was no question of abatement of the appeal against respondent no.1 after his demise. The impugned order is not at all sustainable.

5. Hence, the order :-

(i) The order dated 02.09.2015 passed by the learned Registrar (Judicial) is set aside.

(ii) The abatement of the appeal against respondent no.1 is set aside.

(iii) Respondent nos.2-A to 2-F be treated as the legal representatives of deceased respondent no.1 also.

(iv) Civil Application is accordingly disposed of.

[SANGITRAO S. PATIL, J.]

kbp