

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 3406 OF 2015
IN
FIRST APPEAL NO. 1061 OF 2014
WITH
CIVIL APPLICATION NO. 593 OF 2016
IN
FIRST APPEAL NO. 1061 OF 2014

Rekha Gurudas Waravdekar .. Appellant
vs.
Malini Balaji Kamat nee
Malini Anant Waravdekar & Ors. .. Respondents

Mr. V. K. Nair for Applicant / Appellant.
Mr. Rajesh Jain i/b. Legal Juris for Respondents.

CORAM : M. S. SONAK, J.
DATE : 23 MARCH 2017

P.C :

- 1] Heard learned counsel for the parties.
- 2] This First Appeal was instituted by the appellant - Rekha Gurudas Waravdekar. There is no dispute that Rekha Gurudas Waravdekar has expired.
- 3] Civil Application No. 4322 of 2015 is taken out by Shashant Anand Kamath, seeking to come on record in place of deceased Rekha Gurudas Waravdekar. He claims this privilege on the basis of an alleged Will executed in his favour by Rekha Gurudas Waravdekar on 26 April 2007. There is no progress in this civil application, since, respondent nos. 2 to 7 are yet to be served.
- 4] By Civil Application No. 593 of 2016, Shashant Anand Kamath seeks leave to serve respondent nos. 2 to 7 by substituted service.

5] Learned counsel for respondent no.1 submits that Shashant Anand Kamath is not entitled to come on record in place of deceased Rekha Gurudas Waravdekar. His objection can always be heard. However, it will be appropriate, if, service is effected upon the remaining respondents as well. Accordingly, Civil Application No. 593 of 2016 is allowed in terms of prayer clause (a). For the purposes of service, the returnable date shall be 4 May 2017. The applicant Shashant Anand Kamath to take necessary steps to effect service by publication as prayed for by him, and thereafter to file affidavit of service along with the copies of the paper publications.

6] The issue as to whether Shashant Anand Kamath is entitled to pursue this matter or not is specifically kept open.

7] Civil Application No. 593 of 2016 is disposed of accordingly.

8] By Civil Application No. 3406 of 2015, service upon respondent nos. 2 to 7 by substituted service is again applied for. At this stage, it is not possible to consider this Civil Application, since, the appellant Rekha Gurudas Waravdekar has already expired and issue as to whether Shashant Anand Kamath can pursue this matter is yet to be decided. Therefore, Civil Application No. 3406 of 2015 is disposed of for the present.

9] The interim orders granted earlier in these proceedings shall however continue.

(M. S. SONAK, J.)