

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER No. 695 OF 2017

Mrs. Shobha Sunder Shetty (Decd)
through her LRs Vinutha Shetty & Ors. ... Appellants
Vs.
Bhaskar Somaya Shetty ... Respondent

Mr. V.H. Narvekar i/b. J.N. Jain, Advocate for the appellants.
Mr. Ravindra K. Shetty, Advocate for the respondent.

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE: **27th November, 2017.**

P.C.:

Admit. By consent, the Appeal is heard finally and disposed of at the stage of admission.

2. This Appeal from Order is directed against the order dated 6th 13th November, 2014 passed by the learned Judge of the City Civil Court in S.C. Suit No. 4946 of 2011. The appellants/plaintiffs have filed the suit against the sole defendant/respondent. Plaintiff no. 1- Shobha Sunder Shetty died on 3rd June, 2014 and the application for bringing her legal heirs was taken on 13th November, 2014. Thus, there is a delay of 73 days.

3. The learned counsel for the appellants submitted that the appellants, i.e., legal heirs of plaintiff no. 1 took out Chamber

Summons for bringing them on record. In the Chamber Summons, they prayed that the order of abetment be set aside and for condonation of delay. Hence, the Chamber Summons was not allowed.

4. The learned counsel for the respondent fairly submitted to the orders of this Court.

5. Perused the order. Considered the submissions of the learned counsel for the appellants. 5 plaintiffs are prosecuting the suit. The legal representatives of deceased plaintiff no.1 are to be brought on record. Hence, the order dated 13th November, 2014 passed by the learned Judge of the City Civil Court in S.C. Suit No. 4946 of 2011 is hereby set aside. The delay of 73 days is condoned. The legal heirs of plaintiff no. 1 are to be brought on record.

6. Appeal from Order is allowed in terms of prayer clauses (a), (b) and (c). Amendment to be carried out within two weeks from today. Copy of the same is to be served on the respondent. Parties to appear before the trial Court on the date fixed by the trial Court.

(MRIDULA BHATKAR, J.)