

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

960 WRIT PETITION NO. 798 OF 2017

SHAIKH FAROOK SHAIKH MOHAMMED
VERSUS
SHAIKH MOHAMMED SHAIKH HUSAIN AND OTHERS

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Advocate for Petitioner : Mr. Shaikh Mazhar A. Jahagirdar

Advocate for Respondents : Mr. Swapnil S. Patunkar

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CORAM : V. K. JADHAV, J.
DATED : 4th MAY, 2018

PER COURT:-

1. Heard finally with consent at admission stage.
2. It appears that during pendency of the suit, defendant No.1 died on 22.6.2016 and the petitioner-original plaintiff has filed an application Exh.65 to bring on record the legal representatives of defendant no.1 alongwith the prayer for condonation of delay caused in filing the application for bringing legal representatives on record. It further appears that the trial court has rejected the said application by the impugned order without issuing notice to the proposed legal representatives.
3. In view of above, the impugned order is liable to be quashed and set aside and the matter deserves to be remanded back for deciding application Exh.65 afresh after giving notice to the proposed

legal representatives of defendant No.1. Hence, the following order:-

O R D E R

- I. The writ petition is hereby partly allowed. No costs.
- II. The impugned order dated 02.01.2016 passed below Exh.65 is hereby quashed and set aside. The trial court shall decide application Exh.65 afresh, after giving notice to the proposed legal representatives.
- III. The petitioner is permitted to file death certificate, if not filed alongwith the application Exh.65.
- IV. Writ petition is disposed of.

(V. K. JADHAV, J.)

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