

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2622 OF 2018

KESHAV REVAJI LAMBE DIED LRS
VERSUS
MAHATMA FULE KRUSHI VIDYAPEETH AND ORS

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Advocate for Petitioners : Shri Kasar R.S. h/f Shri Jagtap Adinath B.

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CORAM : RAVINDRA V. GHUGE, J.

Dated: March 13, 2018

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PER COURT :-

1. Learned Advocate for the petitioners has strenuously criticized the impugned order dated 1.1.2018, by which, the trial Court has permitted the appellant / University to bring the L.Rs. of deceased / respondents 1 and 7 in the appeal, on record.

2. Contention is that a wrong provision has been quoted for bringing the L.Rs. on record. Order VI Rule 17 of the CPC has been evoked and by virtue of the same, it is prayed that the L.Rs. be permitted to be brought on record. It is further canvassed that Order XXII Rule 2 of the CPC would be the correct provision. It is also stated that earlier such an application was filed at Exhibit 17 and, therefore, one more application Exhibit 40 could not have been filed.

3. I find that an earlier application was filed at Exhibit 17 by the

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University and there were certain deficiencies in the said application as regards the L.Rs. to be brought on record. It was, therefore, stated that the appellant desires to withdraw the application since there are certain deficiencies.

4. It cannot be ignored that after notices were issued on the application for condonation of delay by the appellate Court, the Bailiff report indicated that respondent Nos.1 and 7 had passed away. Based on the said report, the application was filed. It also cannot be ignored that if the L.Rs. of the deceased respondent Nos.1 and 7 in the appeal are not brought on record, an irreparable harm would be caused to the appellant. The appellate Court has imposed costs of Rs.750/-.

5. Considering the above, I do not find that the impugned order could be termed as being perverse or erroneous or likely to cause gross injustice to the petitioners.

6. This petition being devoid of merits is, therefore, dismissed.

(RAVINDRA V. GHUGE, J.)

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