

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 15977 OF 2016
IN
SECOND APPEAL NO. 539 OF 2010
WITH
CIVIL APPLICATION NO. 11772 OF 2010

PANDIT SARJERAO BHAMBARDE
VERSUS
SARJERAO BHOURAO BHAMBARDE AND ORS

...
Advocate for Appellants : Mr. S.H. Jagiasi
Advocate for Respondents : Mr. M. M. Joshi
.....

CORAM : V. K. JADHAV, J.
DATED : 24th FEBRUARY, 2018

PER COURT:-

1. Heard both sides.
2. The learned counsel for the applicant submits that respondent No.2 died three and half years back, however, his legal heirs could not be brought on record within stipulated time for the reason that the settlement talks were going on between the parties and secondly the applicant was suffering from certain health problems.
3. Learned counsel appearing for respondents submits that deceased respondent No.2 was real brother of the applicant and no settlement talks were going on between the parties at any time. Learned counsel submits that the applicant was not suffering from

any health problems and he was all the while doing his job as a driver. In the alternate, the learned counsel submits that the application may be allowed by imposing the costs.

4. It appears that suit came to be instituted for partition and separate possession in respect of ancestral property. Though there is some delay in filing the application for bringing the legal heirs of respondent No.2, who happened to be the real brother of the applicant, considering the nature of the suit instituted for partition and separate possession, I am inclined to allow this application. However, the applicant is required to be saddled with costs for his inaction.

5. In view of above and for the reasons stated in the application, civil application is allowed in terms of prayer clauses "B" to "D" subject to the payment of costs of Rs.500/- (Rs. Five hundred only).

6. Leaned counsel for the proposal L.Rs. submits that the said amount be paid to the High Court Legal Services Sub Committee, Aurangabad.

7. In view of above, the applicant is directed to deposit the costs of Rs.500/- (Rs. Five hundred only) with High Court Legal Services

Sub Committee, Aurangabad and place on record a receipt to that effect. Stand over to 23.03.2018.

8. Interim relief, if any, to continue till then.

(V. K. JADHAV, J.)

vsm/