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IN THE HIGH COURT OF JUDICATURE AT BOMBAY,

BENCH AT AURANGABAD

CIVIL APPLICATION NO.9202 OF 2018

IN

FIRST APPEAL NO. 1872 OF 2017

Shankar Sayaji Bhillare
since decease through his Legal
Representative ...Applicant

VERSUS

The State of Maharashtra and and Ors. ...Respondents

.....

Shri A.R. Devakate, Advocate for Applicant
Shri S.P. Deshmukh, AGP for Respondent-State
Shri A.M. Gaikwad, Advocate for Respondent No. 3

CORAM: A.M. DHAVALÉ, J.

DATED : 31st July, 2018.

PER COURT :

1. Heard learned Advocate Shri. Devakate for the applicants,
Advocate Shri. A.M.Gaikwad for respondent No.3 and learned
AGP for respondent No. 1 and 2.

2. The applicants are legal heirs of sole respondent Shankar
Bhillare from First Appeal No. 1872 of 2017. He has died on
11.03.2018. The First Appeal No. 1872 of 2017 was argued by
learned advocates for the parties and was decided by brother
Judge on 10.04.2018. The learned Advocates and my brother

Judge obviously were not aware about the death of sole respondent. It is not disputed that the arguments were advanced after the death of the sole respondent.

3. In view of this matter, the Judgment dated 10.04.2018 is in nullity. The application is moved after four months. Since the acquiring body was not aware about the death of sole respondent the abatement of the appeal deserves to be set aside. The applicants deserve to be permitted to bring themselves on record. Hence, the order.

ORDER

- (I) The application is allowed.
- (II) The applicants be brought on record.
- (III) The Judgment in First Appeal No. 1872 of 2017 stands set aside on the ground that it was delivered against the dead person. The appeal shall proceed further as per the provisions of law.
- (IV) The Acquiring Body shall carry out the amendment. The parties agree to argue the matter again tomorrow.
- (V) Civil Application stands disposed of.

(A.M. DHAVALA)
JUDGE

((3))