

IN THE HIGH COURT OF BOMBAY AT GOA

MISC.CIVIL APPLICATION NO. 288 OF 2018

IN

SECOND APPEAL NO. 15 OF 2007

FR. ANTONIO JOSE MINGUEL
FIGUEIREDO (DECEASED) THROUGH HIS
LRS., THR. POA, SOCORRO
FERNANDES.,

... Applicant

Versus

LOURENCO RODRIGUES (DEC) AND 4
ORS.,

... Respondents

Ms. Rosette Pereira, Advocate for the Applicant.

Ms. K. Mangueshkar, Advocate for the Respondent Nos. 1, 3, 4
and 5(a) to 5(g).

Coram:- C. V. BHADANG, J.

Date:- 10th August 2018

P.C.

This is an application for condonation of delay, setting aside of abatement and for bringing the legal representatives of the deceased respondent nos. 1, 2 and 3 on record.

2. Respondent nos. 1 and 2 were husband and wife. The proposed legal representatives of the respondent nos. 1 and 2 as set out in para 9 of the application and that of the respondent no. 3 as set out in para 10 of the application, are served. However, none appears for these proposed respondents. That apart, the widow of the respondent no. 3, Mrs. Fatima Saldanha is already

on record as respondent no. 4.

3. Respondent no. 1 died on 14.05.2015, respondent no. 2 on 05.01.2010 and respondent no. 3 on 19.01.2015. It is contended that although, all the three respondents were represented by an Advocate, the fact of the death of these respondents was not brought to the notice of the Court in terms of Order XXII, Rule 10A of CPC. The Second Appeal No. 15/2007 was admitted on 19.04.2007 and was pending for final hearing and during the course of the arguments, it transpired that these respondents have died. It is contended that there is no negligence or want of due diligence, on the part of the applicant, in bringing the legal representatives of these respondents on record.

4. On hearing the learned Counsel for the applicant and the learned Counsel for the respondent nos. 1, 3, 4 and 5(a) to 5(g) and for the reasons mentioned in the application, the same is allowed as prayed. Necessary incorporation to be carried out within one week.

5. The Civil Application is disposed of.

C. V. BHADANG, J.