

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 1019 OF 2016
IN
SECOND APPEAL No. 270 OF 1992

Pandurang Ramchandra Jadhav (Deceased)
through LR's & Ors.

....Applicants

Versus

Bandu Keshav Jadhav (deceased)
Through LR's.

...Respondents

.....

Mr. Akshay Chikhale i/b. Kayval P. Shah for the Applicants.
Mr. Suhas Inamdar h/f P. J. Shinde for the Respondent Nos. 2 to 4.

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CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE : **MARCH 16, 2018**

P.C.:

1. The learned counsel Mr. Inamdar, appears and submits that he is holding for Mr. Shinde, who was appearing for respondent Nos. 2 to 4. He submits that respondent Nos. 2 to 4 have expired and, therefore, the name of Mr. Shinde is not to be shown for respondent Nos. 2 to 4. Now the appeal is only against the respondent No.1 and against remaining respondents. Considering this, Registry to take note that name of Mr. Shinde is not to be shown on the record as respondent Nos. 2 to 4 are expired and the application for bringing

legal heirs of respondent Nos. 2 to 4 is yet to be decided. Matter is kept back in the afternoon session.

2. In the afternoon session, learned counsel submits that this court had passed conditional order dated 21.09.2005 directing the appellant to file the written submissions on the point of law as well as rulings within two weeks from the date of the said order. However, due to non-compliance of the said order, the appeal itself was dismissed. Learned counsel submits that thereafter, he took out a civil application for restoration of No.1053 of 2012. However, in the said application, notices were issued but the notices were returned with remark that legal heirs of deceased respondent no.1 i.e. respondent nos. 2 to 4 were also dead and, therefore, that application was disposed of. The learned counsel submits that three civil applications, i.e. Civil Application (ST) Nos. 2271/2013, Civil Application (ST) No. 2280/2013 and Civil Application (ST) No. 2311/2013 were taken out to bring on record the legal heirs of Respondent Nos. 2 to 4. However, these applications were not registered as the main Second Appeal was dismissed by an order dated 21.09.2005. The learned counsel submits that appeal was already admitted on 06.08.1992. He prays that the impugned order of dismissal be recalled and the

appellant will take necessary steps expeditiously.

3. Notice cannot be issued to any respondent as the applications for bringing legal heirs of the respondent are to be restored alongwith Second Appeal which is already admitted. In view of this submission, the order of dismissal of the Second Appeal dated 21.09.2005 is hereby recalled so also the orders of refusal of the registration of all three civil applications, Civil Application (ST) Nos. 2271 of 2013, Civil Application (ST) No. 2280 of 2013 and Civil Application (ST) No. 2311 of 2013 of this Second Appeal are also recalled and restored to their original file with order of costs. Appellants to pay the costs of Rs.5000/- to Maharashtra State Legal Services Authority within three weeks and the appellants to take steps within four weeks. Those three Civil applications are to be taken on record and listed on 05.04.2018.

(MRIDULA BHATKAR, J.)