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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**APPEAL FROM ORDER (ST) NO.24998 OF 2018
WITH
CIVIL APPLICATION (ST) NO.25000 OF 2018.**

Vivek Madhavlal Pittie	...	Appellant.
V/s.		
Lalji Uditnarayan Dube	...	Respondent

Mrs. Anita Castileno a/w B. N. Shukla, I/by B.N.
Shukla and Co., for the appellant.

CORAM : DR.SHALINI PHANSALKAR-JOSHI, J.

DATE : 3rd SEPTEMBER, 2018.

P.C. :

1] This Appeal is preferred against the order dated 1st August, 2018, passed by City Civil Court, Mumbai, in Chamber Summons No.1176 of 2018 in S.C. Suit No.1256 of 2015,.

2] By the said order, the trial Court has allowed the Chamber Summons and permitted the legal heirs of the deceased defendant to be brought on record, as the Chamber Summons was filed within the stipulated period of 90 days from the death of original defendant.

3] Appellant in this Appeal is the legal heir of the deceased defendant whose name was permitted to be brought on record.

4] The submission of the learned counsel for appellant is that the trial Court has brought the name of appellant on record as the legal heir of the deceased defendant and not as a Receiver, as per the order passed by this Court, in Appeal from Order No.120 of 2018; and therefore, this order is conflicting to the order passed in the Appeal from Order No.120 of 2018

5] However, in my considered opinion, as the perusal of the impugned order passed by the trial Court, shows that the trial Court has kept all the issues between the parties open, even as regards the defence that of mis-joinder or non-joinder of parties, it is kept open. Therefore, this Court should not interfere into the impugned order. Hence the Appeal from Order stands dismissed.

6] In view of dismissal of Appeal itself, pending Civil Application becomes infructuous and the same is also disposed off.

[DR.SHALINI PHANSALKAR-JOSHI, J.]