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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.4818 OF 2019

Mahesh Seva Samiti, Nanded

PETITIONER

VERSUS

Tramesh Ramkishanji Sarda and Others

RESPONDENTS

.....
Mr. Swapnil S.Rathi, Advocate for the petitioner
.....

[CORAM : SUNIL P. DESHMUKH, J.]

DATE : 19th NOVEMBER, 2019

ORDER :

1. Heard learned advocate for the petitioner.
2. While it is contended that defendant No. 8 died in 2012 and application for bringing his legal heirs on record has been moved in 2017, the same has been allowed without there being any explanation for delay, without any relief in respect of setting aside abatement and while application had been objected on that ground and amends were made filing fresh application, yet, same did not explain as to about delay and in the circumstances, the order passed on Exhibit-237 by the trial court allowing application for bringing legal heirs of deceased defendant No. 8 on record is not legal and proper.

3. Though learned advocate for the petitioner has vehemently submitted as above, yet, perusal of the order would show that all the proper aspects were considered, particularly that though defendant No. 8 died in 2012, its intimation to plaintiff had been only in 2017 and application had been filed in 2017. The same can be considered as there are sufficient reasons given. It had further been considered that Order XXII of the Civil Procedure Code is procedural and is not subject to narrow and hyper-technical considerations. It has further been referred to that such applications deserve to be considered liberally as are intended to avoid hardship.

4. Sufficient cause emanates in the proceedings, since it is not the case that plaintiff had knowledge about death of defendant No. 8 before 2017. Impugned order depicts that all the relevant aspects have been duly considered and does not deserve any interference with. Writ petition, therefore, is not entertained and is rejected and disposed of.

[SUNIL P. DESHMUKH]
JUDGE