

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

924 CIVIL APPLICATION NO.13062 OF 2019
IN
SA/490/2011
WITH
CA/10851/2019
IN
SA/490/2011

DURGADAS DAGDU GIRI AND ORS
VERSUS
GANESH GIRI DAGDU GIRI AND ORS

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Mr. V.R.Dhorde, Advocate for Applicants.
Mr. D.P.Palodkar, Advocate for R – 1 & 3-A.

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CORAM : V.L.ACHLIYA, J.

DATE : 04/12/2019

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ORAL ORDER :

1. Leave to correct the application and fill up blank spaces.
2. This application is filed to bring the L.Rs. of deceased respondent No. 2 on record for the reasons set out in detail in the application.
3. Heard learned counsel for applicants/appellants and respondent Nos. 1 and 3-A.
4. In brief, it is the contention of learned counsel for applicants/appellants that legal heirs of deceased respondent No. 2 are already on record. Respondent

Nos. 1,3-A,4 to 6 are the legal heirs of deceased respondent No. 2. Acting under the impression that as the legal heirs of deceased respondent No. 2 are on record and they are not separately required to be brought on record, the appellants had not intimate the Advocate as to the death of respondent No. 2. After receipt of notice in the month of August, 2019 in respect of measurement of suit land fixed on 04/09/2019, the applicants met their Advocate. During the discussion when the Advocate enquired about the status of respective parties to parties the applicants informed about the death of respondent No. 2. Thereafter, as per the advice of Advocate, the application is filed to set aside the abatement/to show the names of respondent Nos. 1,3-A,4 to 6 as the legal heirs of deceased respondent No. 2 in the cause title.

5. Learned counsel for respondent Nos. 1 and 3-A opposed the application and urged to reject the same.

6. Considering the fact that the L.Rs. of respondent No. 2 are already on record and the application is filed just to take their names on record as heirs of respondent No. 2, I am of the view the application deserves to be allowed. Accordingly, the application is allowed in terms of prayer clause 'B'. Necessary substitution be carried out within one week. The Civil Application stands disposed of.

7. List the Appeal for admission on 11/12/2019.
8. Interim relief operating, if any, in the matter to continue till next date.
9. S.O. 11/12/2019.

[V.L.ACHLIYA]
JUDGE

KNP