

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.2174 OF 2017
IN
WRIT PETITION NO.4313 OF 2017**

Subhash Maruti Mane and Ors. .. Applicants

Versus

Sanjay Dattatray Patil and Ors. .. Respondents

Mr. Abhijit M. Adagule for applicants.

Mr. A.N. Mulla I/b S.A. Mulla for respondent Nos.1 to 3 and 5 to 7.

CORAM : K.K. TATED, J.

DATE : 22 JANUARY 2019.

P.C:-

. Heard learned Counsel for the parties.

2. By this civil application, applicant is seeking permission to bring the legal heirs on record of respondent No.4- Smt. Anusaya Dattatray Patil who died on 09.02.2017.

3. Learned Counsel for the applicant submits that the legal heirs of deceased respondent No.4 i.e. respondent Nos. 4A to 4C are already on record. He submits that respondent No.4D i.e. Sou. Pramila Jaysing Patil (Kerlikar) is duly served by private notice. He submits that he has filed affidavit of service to that effect. Statement is accepted. In spite of service, no one appeared on behalf of respondent No.4D when the matter called out.

4. Considering the submissions made by the learned Counsel for the applicants and averments made in Civil Application, I am satisfied that the applicants have made out case for allowing this Civil Application. Hence, following order :

- a) Abatement set aside.
- b) Delay in filing Civil Application is condoned.
- c) Applicant is permitted to bring the legal heirs on record of deceased respondent No.4-Smt. Anusaya Dattatray Patil in Writ Petition No.4313 of 2017 on or before 28.02.2019, failing which civil application shall stands dismissed without reference to the Court.
- d) If amendment is carried out within stipulated time, applicant is directed to serve the amended copy of Writ Petition No.4313 of 2017 on other side including the legal heirs of deceased respondent No.4 on or before 30.04.2019 and file affidavit of service to that effect.
- e) Civil Application stands disposed of accordingly.

(K.K.TATED, J.)