

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.318 OF 2016
IN
CIVIL REVISION APPLICATION NO.479 OF 2012

Akhtar Jallu Khan	...Applicant
<i>In the matter between</i>	
Edna Sushila Samual	...Applicant
vs.	
Kalyan Baburao Taware and Ors.	...Respondents

Mr. D.S. Patil, for the Applicant
Mr. S.A. Sawant, for Respondent No. 1.

CORAM : M. S. SONAK, J.

DATE : APRIL 02, 2019

P.C.:

- . Heard learned counsel for the parties.
2. Mr. Sawant, learned counsel for Respondent No. 1 point out that the Civil Revision Application in which the Civil Application has been taken out, was filed in the teeth of the order made by the Hon'ble Supreme Court restraining the Applicant from initiating any proceeding with respect to subject matter of the suit property. He points out that on three occasions in the past the Applicant had sought for time to obtain clarification from the Hon'ble Supreme Court. However, no clarification is obtained till date.
3. Therefore, this Civil Application is dismissed since the Civil

Revision Application in which it is filed is itself not maintainable.

4. Today we are only concerned with the issue of bringing on record the legal heirs of the deceased Applicant. There is delay of 18 days. This delay is sufficiently explained and therefore, it is liable to be condoned.

5. Mr. Sawant, learned counsel for the Respondent No. 1 point out that the present Applicant is not the legal representative of the original Applicant but only the lawyer of the original Applicant. He submits that by virtue of a Will, the present Applicant is indeed the legal representative of the deceased Applicant. The issue as to whether the present Applicant is indeed the legal representative of the deceased Applicant, can be kept open and is kept open. However, for the present the delay of 18 days is condoned and the present Applicant is permitted to come on record.

6. This order does not mean that this Court has accepted the present Applicant is indeed the legal representative of the deceased Applicant.

7. In so far as the issue of Civil Revision Application being in breach of the direction of the Supreme Court are concerned, even that issue is kept open.

8. The only reason why this Revision Application is entertained

and allowed because in the meanwhile, the Supreme Court has disposed of the pending proceeding and even vacated the interim order granted. Therefore, at least *prima facie* it cannot be said that the present application should not even be considered by this Court.

9. The Civil Application is therefore allowed in the aforesaid terms leaving open all rights and contentions of all the parties.

10. The Civil Application is disposed of as such.

11. All contentions of the parties are kept open including the contentions that the Applicant is ready to face the consequences of moving such application.

12. Amendment to be carried out within four weeks from today.

13. Copy of the amended Revision Application to be furnished to the learned counsel for the Respondents.

(M. S. SONAK, J.)