

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.3758 OF 2016
IN
FIRST APPEAL NO.672 of 1993

Shri. Rulamsaheb Huseinmiya Patel
(dec'd.) Through LR's and Ors. .. Applicants
Versus
The State of Maharashtra through
Special Land Acquisition Officer
And Ors. .. Respondents

Mr. Akshay Kandharkar I/b R.S. Datar for applicants.
Mr. Yogesh Dabake, AGP for respondent No.1.
Mrs. Seema Sarnaik for respondent Nos.5 and 16.

CORAM: K.K. TATED, J.

DATED : MARCH 19, 2019.

P.C. :

- 1 Heard learned Counsel for parties.
2. Though the respondents are duly served no one appeared on behalf of them when the matter called out.
3. By this Civil Application, applicant is seeking permission to bring the legal representatives of respondent No.2 on record and to delete the name of respondent No.3 from the cause title of the First Appeal.
4. The learned Counsel for the applicant submits that the respondent No.2 expired on 05.02.2015. He submits that for want of knowledge, it remain on their part to file the Civil

Application within time. He further submits that the respondent No.3 also died on 10.10.2008 without any legal heirs.

4. Considering the submissions made by learned Counsel for the applicant and the reasons disclosed in Civil Application for delay, I am satisfied that the applicant has made out case for allowing this Civil Application. Hence, following order :-

a) Civil Application is allowed in terms of prayer clause (a), (b) and (c), which reads thus :-

“(a) that delay of 1 year, in filing the present Civil application for bring heirs and legal representatives of respondent No.2 be condoned and delay of 4 years in deleting name Respondent No.3 be condoned.

(b) that the abatement of First Appeal be set aside;

(c) Respondents Nos. 5 to 10 and Respondent Nos. 15 to 18 be shown as heirs and legal representatives of deceased Respondent No.2 and name of Respondent No.3 be deleted from cause title of the above Civil Application and also from the cause title of First Appeal.”

b) Applicant to carry out appropriate amendment on or before 20.04.2019, failing which Civil Application shall stand dismissed without reference to the Court.

c) If amendment is carried out within stipulated time, as stated above, applicant is directed to serve the amended copy of the appeal memo on other side.

d) Registry is directed to issue notice in First Appeal No.672 of 1993 to the added respondents.

e) In addition to the usual mode of service in First Appeal No.672 of 1993, applicant is directed to serve the added respondents by private notice along with entire proceedings either by RPAD and or by hand delivery and file affidavit of service to that effect on or before 30.06.2019.

f) Civil Application stands disposed of accordingly.

g) No order as to costs.

(K. K. TATED, J.)