

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.2042/2019
in
FIRST APPEAL (STAMP)NO.4497/2019

Akhtar Hasan Rizvi ... Appellant/org.plff.
Vs.
Jend M. Panthaki & Ors. ... Respondents.

Mr.Akash Rebello a/w Mahesh Mishra I/b Ravi Thankain for
appellant.

Mr.Ravish Mishra a/w Jayraj Shinde I/b V.B. Dhingreja,
advocate for respondent nos.1(a) and 5.

CORAM : K.K.TATED, J.
DATED : JUNE 21, 2019.

P.C.

Heard learned counsel for parties.

2. Learned advocate for applicant submits that, in view of death of respondent no.3, his name may be permitted to be deleted from cause title of civil application as well as first appeal. His legal heirs are already on record as respondent no.1(a) to 1(c) in cause title. He submits that applicant may be permitted to treat them as legal heirs of respondent no.3. His oral request is allowed.

3. Learned advocate for applicant/original plaintiff

submits that all respondents are duly served. He tendered affidavit of service dated 21.6.2019. Same is taken on record and marked 'X' for identification.

4. Affidavit of service shows that respondents are duly served by hand delivery through letter dated 15.6.2019. In spite of service, no one appeared on behalf of other respondents.

5. By this civil application, applicant is seeking condonation of one day's delay in filing first appeal, challenging judgment and decree dated 14.12.2018 passed by Bombay City Civil Court, Bombay in Suit No.6909/1978 (High Court suit no.1108/1978)

6. Considering the submission made by the learned counsel for applicant, and the averments made in the application, I am satisfied that applicant has made out a case for allowing this application.

7. Hence, the order.

a) Delay in filing first appeal is condoned.

b) Applicant to carry out amendment in

cause title on or before 20.7.2019 to that effect.

c) If amendment is carried out, the applicants to serve amended copy of First Appeal (St) No.4497/2019 on Respondent's Advocate.

d) Civil application is disposed of.

e) No order as to cost.

(K.K.TATED, J.)

