

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION No. 4267 OF 2018
IN
FIRST APPEAL No. 1043 OF 2017

Mr. Sanjay Dnyandeo Ranpise ... Applicant

And

Mrs. Mansi Wd/o. Late Shri Sanjay JagtapAppellant/
Org. Plaintiff

Vs.

Mr. Suresh T. Punamia and Ors.Respondents

Mr. Anand Mishra a/w. Neha Mishra i/b. A.M. Saraogi for the Applicant
Mr. J.B. Vyas for Respondent Nos.2 and 3

CORAM: K.K. TATED, J.

DATED : JUNE 19, 2019

P.C. :

1. Heard learned counsel for the parties.
2. By this civil application, the Applicant is seeking permission to bring the legal heirs on record of the Appellant -Original Plaintiff deceased Mansi Sanjay Jagtap, who died on 22nd May, 2018.
3. Learned counsel Mr. Anand Mishra for the Applicant submits that in the present proceedings, they filed the first appeal, challenging the judgment and decree dated 1st August, 2017 passed by the Bombay City Civil Court at Bombay in Suit No. 2269 of 2016. The said suit was dismissed by the trial Court. Thereafter, the original plaintiff filed the present First Appeal. During the pendency of the First Appeal, the

Original Plaintiff expired leaving legal heirs Miss Swara Sanjay Jagtap and Harshvardhan Sanjay Jagtap. Both legal heirs are minor. He submits that the Applicant Sanjay Dnyandeo Ranpise is appointed as Guardian as per the Guardianship and Wards Act, 1980 by this Court by order dated 5th September, 2018 in Indian Guardianship Petition No. 22 of 2018. On the basis of this submission, the learned counsel for the Applicant submits that in the interest of justice, this Hon'ble Court be pleased to condone the delay in filing the civil application and applicant may be permitted to join as a party Appellant in the First Appeal No. 1043 of 2017 and the pending civil application No. 2895 of 2017. He submits that if the application is not allowed, irreparable loss would be caused to them.

4. On the other hand, learned counsel Mr. J.B. Vyas appearing for respondent Nos.1 and 2 submits that Suresh T. Punamia Respondent No.1 died on 30th August, 2018.

5. On the other hand, learned counsel for the Applicant submits that Respondent No.1 is the father of Respondent nos.2 and 3. Therefore, his legal heirs are already on record. He submits that in view of these facts, the Applicant may be permitted to carry out appropriate amendment in cause title of the First Appeal as well as Civil Application by deleting the name of Respondent No.1 Suresh T. Punamia.

6. Considering these facts, I am of the opinion that the Applicant has made out a case for allowing them to delete the name of respondent No.1 from the cause title of First Appeal as well as civil application at their costs and consequences.

7. Hence, following order:

- (a) Delay in filing Civil Application is condoned.
- (b) Applicant is permitted to bring on record the legal heirs of the deceased Original Appellant.
- (c) Applicant to carry out appropriate amendment in the First Appeal as well as in the pending civil application on or before 12th July, 2019 failing which civil application shall stand dismissed without referring back to the Court.
- (d) Applicant is permitted to delete the name of Respondent No.1 Suresh T. Punamia and carry out appropriate amendment in the cause title of the First Appeal as well as pending civil application at their own costs and consequences on or before 19th July, 2019.
- (e) If amendment is carried out within stipulated time as stated hereinabove, applicant is permitted to serve the amended copy of the First Appeal as well as civil application on respondents immediately thereafter.
- (f) Civil Application stands disposed of accordingly.
- (g) No order as to costs.

(K. K. TATED, J.)