

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CIVIL APPLICATION (CAO) 524 OF 2019

(Amrut D. Rokde & anr ..vs.. Anil s/o. Gattulal Jain & anr)

IN

MISCELLANEOUS CIVIL APPLICATION (MCA) OF 2019

(Amrut s/o. Damodharrao Rokde & anr..vs.. Anil s/o. Gattulal Jain & anr)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.*

Court's or Judge's orders.

Shri. P.P. Kotwal, counsel for applicant in CAO 524 of 2019.
Shri. P.A. Markandeywar, counsel for original petitioners.

CORAM: ROHIT B. DEO, J.

DATE: 8th MARCH, 2019.

CIVIL APPLICATION (CAO) 524 OF 2019

Shri P.A. Markandeywar, the learned counsel for the original petitioners has no objection if the delay in preferring application for recalling / review is condoned.

Application is allowed. The delay is condoned in view of the no objection of the learned counsel and for reasons stated in paragraph 3 of the application.

MISC. CIVIL APPLICATION OF 2019

The original respondents are seeking recall of the judgment dated 26.10.2018 in Writ Petition 7877 of 2017. The ground is that respondent 1 died on 21.12.2017 and the report of the Registry erroneously records that both respondents 1 and 2 are served on 1.8.2018. It is however not disputed that respondent 2 was duly served.

2 Since Writ Petition is dismissed, the fact that respondent 1 was dead is of no relevance or significance. Be it noted, that respondent 2 who was served opted not to appear in Writ Petition 7877 of 2017. In this view of the matter, the prayer for recall of the judgment and impleadment of the legal heirs of the deceased respondent 1 in the Writ Petition which is disposed of, can not be granted. Needless to state, that the legal heirs of the deceased respondent 1 are free to apply to the appellate Court seeking impleadment in appeal, if so advised. The only modification which is required to be made is that the period of four months which is stipulated needs extension. The appellate Court is requested to finally dispose of the appeal on or before 5.5.2019. The appellate Court is further requested to regulate the proceedings in the light of the observations in paragraph 8 of the judgment dated 26.10.2018.

3 The application is disposed of in the aforestated terms.

JUDGE