

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

C.A.W. NOS.40/2018 AND 43/2018

IN

WRIT PETITION NO.6348/2015

Kishorkumar S/o Chunnilalji Mantri

..Vs..

Shri Bhojrajji Gupta and others

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

Court's or Judge's orders

Shri M.G. Bhangde, Senior Advocate with Shri V.V. Bhangde, Advocate
for the petitioner.

Shri D.S. Agnihotri, Advocate for respondent Nos.1(iv) to 1(vii).

Shri A.J. Gilda, Advocate for respondent Nos.5 to 8.

CORAM : Z.A. HAQ, J.

DATE : 24.1.2019.

The respondent No.1 is dead and the petitioner has moved these applications for bringing his legal representatives on record. Notices of these applications are served on the proposed legal representatives and Shri A.S. Agnihotri appears for proposed legal representatives Nos.(iv) to (vii). It is submitted that the legal representatives are opposing the prayer made on behalf of the petitioner to bring them on record as this petition arises out of an order passed by the trial Court in proceedings under Order 39 Rule 2A of the Code of Civil Procedure. It is submitted that the cause of action would not continue against the legal representatives of respondent No.1. On query, it is submitted that the legal representatives of respondent No.1 are not brought on record in proceedings before the trial Court.

In this petition, order passed by the trial Court directing deletion of name of respondent No.3 is challenged.

Considering the nature of controversy, in my view, objection raised on behalf of the legal representatives of respondent No.1 is not required to be considered in this petition. The same is kept open for consideration by trial Court, if occasion arises.

Pursis dated 24th January, 2019 is filed by the Advocate appearing for legal representatives (iv) to (vii) of respondent No.1, stating that the respondent No.2 - Smt. Chhotibai Bhojrajji Gupta expired on 13th January, 2019. The learned Advocate for the petitioner as well as learned Advocate for legal representatives Nos.(iv) to (vii) of respondent No.1 submitted that the respondent No.2 Smt. - Smt. Chhotibai Bhojrajji Gupta was wife of respondent No.1 and legal representatives of both of them are same.

In the facts of the case, the petitioner is permitted to delete the name of respondent Nos.1 and 2 and substitute the names of the proposed legal representatives of respondent No.1. As recorded earlier, the objection raised on behalf of the legal representatives is kept open for consideration at appropriate stage. The civil applications are **allowed** accordingly. No costs.

JUDGE