

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

18 CIVIL APPLICATION NO.7283 OF 2019
IN SAST/15423/2019 WITH SA/345/2019
WITH CA/7282/2019 IN SA/345/2019

KISAN@KRUSHNA AMBADAS UKARANDE DECEASED THROUGH LRS
SUDHAKAR DEAD THR LRS JAYSHRE
VERSUS
HARIBA @HARIDAS YESHWANT UKARANDE DIED THR LRS VISHWAS
DIED THR LRS VAIBHAV V UKA

Mr.V. J. Dixit, Senior Counsel i/b Mr. S. V. Dixit,
Advocate for the applicants
Mr. V. C. Solshe, Advocate for respondent No. 6
Ms. Jayashree Nawale (Ghorpade) h/f Mr. V. D. Salunke,
Advocate for respondent Nos. 2A to 2C, 3 and 4.

CORAM : S. M. GAVHANE, J.
DATED : 06.01.2020

PER COURT :-

. In Second Appeal (ST) No. 15423 of 2019 appellants have moved this application for allowing them to bring on record applicant Nos. 4A/1 to 4A/4 as LR's of applicant/appellant No. 4A Angad S/o. Vaijinath Gholap, who died on 19/10/2011 by condoning delay of 2661 days, caused in filing this application and by setting aside abatement of appeal as regards the said appellant.

2. Mr. Dixit, learned senior counsel submitted

that applicant No. 4A/appellant No. 4A Angad Gholap died on 19/10/2011 and applicant Nos. 4A/1 to 4A/4 are his legal heirs. There were two appeals i.e. RCA No. 246 of 2014 and RCA No. 245 of 2014 arising out of the same suit i.e. Special Civil Suit No. 38 of 1987 and in the RCA No. 245 of 2014 filed by present respondent No. 6-Ramdas Ukarande, the LR's of applicant No. 4A-Angad Gholap were brought on record, who was respondent No. 9A as respondent No. 9A1, 9A2, 9A3 and 9A4. Therefore and as original suit being suit for partition, the delay caused in filing this application to bring on record LR's of applicant No. 4A may be condoned and by setting aside abatement of appeal, if any, his LR's as mentioned in the application may be allowed to be brought on record by carrying necessary amendment.

3. Ms. Jayashree Nawale (Ghorpade) h/f Mr. V.D. Salunke, learned counsel states that Mr. V. D. Salunke is appearing for respondent Nos. 2A to 2C, 3 and 4. No reply is filed by said respondents opposing the application.

4. It appears that respondent No. 5-Gajarabai

Ukarande is dead.

5. Mr. Solshe, learned counsel states that he will file Vakalatnama for respondent No. 6 within a week and this respondent has no objection to grant the application. He fairly submits that LR's of applicant No. 4A were brought on record in RCA No. 245 of 2014 filed by respondent-Ramdas as a respondent Nos. 9A1 to 9A4.

6. Perused the application. Considering the submissions made by the learned senior counsel for the applicants, the nature of suit and the fact that LR's of applicant No. 4A-Angad Gholap were brought on record in RCA No. 245 of 2014 as respondent Nos. 9A1 to 9A4, it is just to condone the delay caused in filing this application and to allow the appellants to bring on record LR's of applicant No. 4A, as requested, by setting aside abatement of appeal against of said appellant. It appears that when the LR's of applicant No. 4A were brought on record in RCA No. 245 of 2014, one of the LR's is Anuradha Kiran Patil i.e. respondent No. 9A4 as mentioned in the said appeal, but in fact,

she is Anita Kiran Patil, who is mentioned as applicant No. 4A3 in this application

7. In the above circumstances application is allowed in terms of prayer clauses (A), (B) and (C). appellants to carry necessary amendment in the cause title of appeal to show LR's of appellant No. 4A-Anagad Gholap as requested in the application.

8. Place both the appeals for admission on 21/01/2020.

[S. M. GAVHANE, J.]