

IN THE HIGH COURT OF BOMBAY AT GOA

MISC.CIVIL APPLICATION NO. 34 OF 2018

IN

FIRST APPEAL NO. 116 OF 2015

JAIRAM ANANT MANDREKAR AND 5 ORS., ... Applicants

Versus

SRIMATI ARJUN GHATWAL (DECEASED)

THROUGH HER LEGAL HEIRS AND 6

ORS.,

... Respondents

Adv. Neehal Sandeep Vernekar for the Appellant.

Ms. Sapna Mordekar, Addl. Government Advocate for Respondent no.2.

Adv. Mr. Vilas Pavithran for Respondent nos. 3(a) to 3 (c).

Coram:- DAMA SESHADRI NAIDU, J.

Date:- 17th February 2020

P.C.:

The appellants filed this appeal in 2015.

2. Respondent nos.1(a) and 3, too, were shown as the parties to the appeal. But by the time the appeal was filed, those two respondents had died. This fact came to light when the bailiff tried to serve the notice on those respondents.

3. Now, the appellant has come up with this Misc. Civil Application. In this application, he contends that the deceased respondent no.1(a) stands sufficiently represented because respondent nos.1(g) to 1(l) and 1(o) and 1(p) are his legal representatives. And they are already on record in their individual capacity. On the other hand, the third respondent's wife, too is on record as respondent no.1(e). Now the appellant proposes to bring on record the third respondent's children as respondent nos.3(a) to 3(c).

4. I may note that respondent nos 1(a) and respondent no.3 had died before the appellant filed this first appeal. So it is a misnomer to call this application one under Order 22 Rule 4 of C.P.C—that is an application for bringing the legal representatives on record. In other words, the question of bringing legal representatives of persons who had died before the proceeding began would be a contradiction in terms.

5. Technicalities apart, the law mandates that parties dying at whatever stage of the proceedings, they should stand represented by their legal representatives if available. Thus, the application to bring on record the legal representatives as respondent nos.3(a) to 3(c) cannot be objected to.

6. For the reasons mentioned in the application, I allow the Misc. Civil application.

6. Amendment to be carried out in two weeks.

7. Shri Pavithran waives notice for respondent nos. 3(a) to 3 (c).

Post the matter on 2/3/2020.

DAMA SESHADRI NAIDU, J.

ap/-