

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INTERIM APPLICATION NO. 1 OF 2020
IN
SUIT NO. 8 1996

Ambalal Maganlal Patel ...Applicant

In the matter between

Ambalal Maganlal Patel ...Plaintiff

Versus

Mrs. Carol R. Lobo & ors. ...Defendants

Ms. Shruti Bhavsar, i/b Sean Wassoodew, for the Plaintiff.

Mr. Trinity Rebello, i/b Mr. J. H. Dhorajiwalla, for Defendant
nos.1(a) & (b), 6, 7 and 8.

Mr. Surya Das, i/b R.R. Sharma, for Defendant nos.2(a)(b)(c)
and 4(a).

CORAM: N. J. JAMADAR, J.

DATED : 27th JANUARY, 2020

PC:-

1. Not on board. Mentioned. Taken on board.
2. This application is taken out by the plaintiff to delete the name of plaintiff no.2 Jayshree Jayantilal Biscuitwalla, who died on 17th July, 2015, and bring the legal representatives of Lancelot Felix Gonsalves, defendant no.5(c) and defendant no.8, who died on 24th August, 2018.
3. In the application, it is averred that plaintiff no.2 died on 17th July, 2015 and the plaintiffs be permitted to delete her name from cause-title of the plaint as the estate of the deceased plaintiff no.2, is represented by plaintiff nos.3 to 5.

4. The plaintiffs further assert that the factum of death of Lancelot Felix Gonsalves, defendant no.5(c) and defendant no.8, was informed to the plaintiffs by the Advocate for the defendants on 4th November, 2019. Hence, the plaintiff be permitted to bring the legal representatives of the said defendant, on record.

5. It is not disputed that the factum of death of abovenamed defendant was informed by the Advocate for the defendants to the plaintiffs on 4th November, 2019. It is also not disputed that the proposed defendant nos.8(a) to 8(c) are the legal representatives of the deceased defendant no.8.

6. In the aforesaid backdrop, the prayer to condone the delay in setting aside the abatement and permit the plaintiffs to bring the legal representatives of defendant no.8, on record, deserves to be allowed.

7. Hence, the following order.

: O r d e r :

- (i) The application stands allowed.
- (ii) The delay in seeking setting aside of the abatement and bringing the legal representatives of defendant no.8 stands condoned.
- (iii) The abatement of the suit as against Lancelot Felix Gonsalves, defendant no.5(c) and defendant no.8, stands set aside.

- (iv) The plaintiffs are permitted to bring the legal representatives of defendant no.8 on record as proposed in the schedule appended to the application.
 - (v) The plaintiffs are also permitted to amend the plaint so as to delete plaintiff no.2 from the array of the plaintiffs.
 - (vi) The plaintiffs shall carry out necessary amendment as proposed in the schedule appended to the application within a period of three weeks.
 - (vii) The plaintiffs shall serve copy of the amended plaint on all the defendants, within two weeks thereafter.
8. Interim application stands disposed of.
9. Suit be listed on 2nd March, 2020.

[N. J. JAMADAR, J.]