

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

19 CIVIL APPLICATION NO.2723 OF 2021
IN SAST/34087/2019
WITH
CA/13462/2019 IN SAST/34087/2019 WITH CA/13463/2019
IN SAST/34087/2019

KASHINATH MAHADU RAYKAR DIED LRS. BHIMABAI
KASHINATH RAYKAR AND OTHERS
VERSUS
SITABAI BANSI SABLE DECEASED LRS. SANTOSH BANSI
SABLE AND OTHERS

...
Advocate for Applicants : Mr. Deshpande Siddharth R.
Mr. Karpe Rahul R., Adv. For R/1 In CA/13462/2019.

CORAM : SMT.VIBHA KANKANWADI, J.
DATE : 26th July, 2021.

PER COURT :-

1. It appears that husband of deceased Respondent No.1 has not been made as a party to the application. This fact is pointed out by learned Advocate for the appellant as well as learned Advocate holding for Mr. Karpe for Respondent Nos.1-A to 1-D.
2. In view of the fact that one of the heirs has been left out, the appellant/applicant to add him as a party. The amendment to that effect be carried out immediately today itself.
3. Though Civil Application says that there is delay, however, in view of order passed by the Hon'ble Supreme

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court, extending the period of limitation due to lockdown, the Civil Application was within limitation and there is no hurdle or any hitch in allowing the amendment for adding one of the left out heirs.

4. Taking into consideration the fact that the application is within limitation and further it appears that the suit that was filed was for partition, separate possession as well as declaration, the right to sue survives against the legal representatives of deceased Respondent No.1 and, therefore, the application stands allowed. The legal representative of Respondent No.1 be brought on record immediately after carrying out the amendment.

5. After the amendment is carried out, notice be issued to the added Respondent No.1-E, to be made returnable six weeks.

6. Interim relief, if any, to continue.

(SMT. VIBHA KANKANWADI)
JUDGE

BDV