

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

933 CIVIL APPLICATION NO.8593 OF 2020
IN SA/688/2006 WITH CA/12504/2011 IN SA/688/2006

JANBI SHAIKH BURHANUDDIN DIED THROUGH LRS.

VERSUS

BISMILLABI CHANDUBHAU DECEASED THROUGH LRS.

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Mrs. M.A. Kulkarni, Advocate for applicants

Mr. G.R. Syed, Advocate for respondent No.1

Mr. S.V. Suryawanshi, Advocate for respondent No.2

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 21st JANUARY, 2021.

PER COURT :

1 This Court issued notice on 06.01.2021 to the respondents. In fact, it appears from the record that the respondent No.1 had expired long back and respondent No.1 was mother of the appellant/applicant and appellant/applicant was the only legal heir left by respondent No.1. Under such circumstance, there was no question of bringing the legal representatives of respondent No.1 on record. As regards respondent No.3 is concerned, it appears that her name was deleted, when the matter was before First Appellate Court. Therefore, the appeal is surviving only against respondent No.2, who is now represented by learned Advocate Mr. S.V.

Suryawanshi. By this application it is informed that the original appellant/plaintiff has expired and the present applicants are her legal representatives. The appellant/plaintiff expired on 21.07.2020. Though the present application appears to have been filed on 28.10.2020; yet, in view of the pandemic situation and the orders passed by Hon'ble Supreme Court in respect of limitation, the Civil Application is within limitation. Respondent No.2 cannot have objection for bringing the legal representatives of the appellant/plaintiff on record, that too within limitation. When the original suit was for partition the right to sue is therefore survived for the present applicants. Under such circumstance, there was, in fact, no necessity to issue the notice to respondent No.2.

2 Application stands allowed and disposed of.

3 The legal representatives of the applicant be brought on record.

4 Necessary amendment be carried out within a period of one week.

(Smt. Vibha Kankanwadi, J.)