

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

34 CIVIL APPLICATION NO. 10408 OF 2021
IN SA/477/1995

NASER BIN SALEH KOYALAKH AND OTHERS
VERSUS
VASANTRAO BHASKARRAO PATHAK DIED LRS. AMOL VASANT PATHAK

...
Ms. Fatima Kazi, h/f Mr. S. S. Kazi, Advocate for Applicants/Appellants.
Mr. Ajinkya Kale, i/b Talekar And Associates.

...
AND
CIVIL APPLICATION NO. 10407 OF 2021
IN SA/477/1995

VASANTRAO BHASKARRAO PATHAK SINCE DIED THROUGH LRS.
UJJWAL AMOL PATHAK AND OTHERS
VERSUS
NASERBIN SALEH KOYALAKH AND OTHERS

...
Mr. Ajinkya Kale, i/b Talekar And Associates, for Applicants.
Ms. Fatima Kazi, h/f Mr. S. S. Kazi, Advocate for Respondents.

...
CORAM : **SHRIKANT D. KULKARNI, J.**
DATE : 13th December, 2021.

P.C.:

. The appellants have moved Civil Application No.10408 of 2021 so as to bring on record legal heirs of sole respondent Vasant s/o Bhaskarrao Pathak, whereas the legal representatives of Vasantrao Bhaskarrao Pathak have also moved Civil Application No.10407 of 2021 so as to bring them on record on the basis of gift deed.

2 Heard Ms. Fatima Kazi, learned counsel holding for Mr.S.S. Kazi, learned counsel for applicants/appellants and Mr. Ajinkya Kale, learned counsel instructed by Talekar and Associates for the legal representatives. Perused the papers.

3 The appellants who are parties to the second appeal have moved Civil Application No.10408 of 2021 so as to bring on record the legal heirs of sole respondent Vasant s/o Bhaskarrao Pathak, who is reported to be dead on 3rd February, 2020. The death extract issued by the Municipal Council, Jalna is also placed on record vide Exhibit R-1.

4 In Civil Application No.10407 of 2021, the applicants are putting forward their claim in respect of suit property on the basis of gift deed. They cannot be said to be legal heirs, but they are legal representatives on the basis of gift deed. As such, the applicants in Civil Application No.10407 of 2021 may file independent civil application so as to add them in the appeal in view of their interest involved in the subject matter.

5 Having regard to the above reasons, Civil Application No.10408 of 2021 is hereby allowed. The legal heirs of sole respondent Vasant s/o Bhaskarrao Pathak shall be brought on record within two weeks by carrying out necessary amendment in the appeal

memo and thereafter, copy be served upon the respondents.

6 Civil Application No.10407 of 2021 is also disposed of with direction to the applicants to file independent application to add them in the second appeal.

7 Accordingly, both the civil applications stand disposed of.

[SHRIKANT D. KULKARNI, J.]

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