

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.8741/2020
IN
SECOND APPEAL NO.345 OF 1992
WITH
CIVIL APPLICATION NO.506/2021
IN
WITH X-APL NO.2/2004

NARHARRAO MADHAVRAO TUNGAR DIED
LRS.MANORAMABAI DIED
LRS. SUREKHA GANPATRAO NEWASEKAR AND OTHERS
VERSUS
SHAMRAO MADHAVRAO TUNGAR DIED
LRS. SHARAYU SHAMRAO TUNGAR

...

CORAM: H.M.BHOSALE
REGISTRAR (JUDL)

DATED: 13/01/2021

1. This Second Appeal along with Civil Application No.8741/2020 is placed before the Registrar (Judicial) by virtue of the provisions under the Bombay High Court Appellate Side Rules, 1960. The above numbered C.A. is filed to bring on record legal heirs of appellant no.1D Kuldeepak Narharrao Tungar. The applicants have specifically mentioned in the application that appellant no.1D has died on 3.9.2020. To substantiate this averment, Death Certificate (Exhibit-A) is placed on record. The C.A. is filed on 23.10.2020 i.e. within period of 90 days. In turn, it is within limitation.

2. Having considered that the appellant no.1D has died and right to sue survived/vested upon the present applicants, the application deserves to be allowed.

3. Here reference to the provisions under Chapter II Rule 3 sub rule (i) of the Bombay High Court Appellate Side Rules may be conveniently made. It reads as under:-

3. Disposal of matters by Registrar.-

(i) Applications for entering on the record the names of the legal representatives of the deceased parties which are presented in time and/or in which there is no contest.

The cumulative effect of the above said factual aspect and provisions under the Bombay High Court Appellate Side Rules is that the Registrar (Judicial) is empowered to entertain and decide the applications to bring on record legal heirs which are presented in time. Consequently, I pass the following order.

ORDER

- (i) The Civil Application is allowed.
- (ii) Names of applicants being legal heirs of appellant no.1D are allowed to be substituted in his place.
- (iii) Appellants to carry out the amendment within stipulated period.
- (iv) In the facts and circumstances of the case, no order as to costs.

REGISTRAR (JUDL)