

Santosh

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO. 2007 OF 2021
IN
FIRST APPEAL (ST) NO. 30555 OF 2019**

SANTOSH
SUBHASH
KULKARNI

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Date: 2021.10.07
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Andrew Ignatius (deceased)

Mr. Harsh Andrew Ignatius (Legal Heir &
representative of deceased appellant/
applicant/ori. Defendant)

...Applicant/
Appellant

Versus

Anthony Derek Rebello

...Respondent/
Ori.Plaintiff

Mr. Santosh Vishwakarma, for the Applicant/Appellant.

Mr. Kunal Bhangе, a/w Abhijit Patil & Yash Joglekar, for the
Respondent.

CORAM: N. J. JAMADAR, J.

DATED : 6th OCTOBER, 2021

PC:-

1. Heard Mr. Vishwakarma, the learned Counsel for the applicant.

2. This application is taken out to bring the legal representative of the original applicant Mr. Andrew Ignatius, who passed away on 18th November, 2020.

3. The applicant Mr. Harsh Andrew Ignatius claims to be the sole representative of the deceased applicant, who preferred the application in order to prosecute the appeal against the judgment and decree dated 26th July, 2018, passed by the

learned Judge, City Civil Court, Greater Bombay, in Suit No.331 of 2015.

4. The respondent has resisted the application by filing an affidavit-in-reply. The principal ground of resistance is that the applicant has no *locus standi* to maintain the application as the claim of being a legal representative of deceased Andrew Ignatius is, on the one hand, contentious and, on the other hand, the said Andrew Ignatius was himself a trespasser and thus no right to sue survives.

5. The contentions on behalf of the respondent, can be considered while determining the appeal on merits. It would be expedient to permit the applicant to implead himself in the stated capacity of the legal representative of the deceased Andrew Ignatius, lest there would be no person to prosecute remedies of the deceased defendant.

6. For the foregoing reasons, the application stands allowed in terms of prayer clause (a) without prejudice to the contentions of the respondent, as regards the locus of the applicant.

7. Necessary amendment be carried out in the appeal-memo within a period of two weeks.

[N. J. JAMADAR, J.]