

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 993 OF 2016
AND
CIVIL APPLICATION NO. 258 OF 2014
IN
FIRST APPEAL NO. 78 OF 2000

Shri Mahsh S. Kadrekar

...Applicant

In the matter between

1. Shri S.M. Kadrekar, since deceased
through legal heirs

1(a) Sushma Shivram Kadrekar & Ors.

...Appellants

vs.

Kersi Ardeshir Rabadi & Ors.

...Respondents

Mr.Yogeh P. Morbale i/b. Pillai & Co. for Applicant.

Mr.Aditya Sashittal for Respondent Nos.1(a) to 1(c).

Mr.Y.Y. Dabake, AGP for State.

CORAM : BHARATI DANGRE, J.

DATED : 12 OCTOBER 2021

PC. :

1. The application taken out in the year 2016 is pending before this court and today when the parties appeared before the court, they state that the dispute between the parties, which has emerged in the form First Appeal No.78/2000 stands settled amongst themselves. They are ready with the compromise pursis.

2. It would be necessary to deal with the civil application. By the said application, the legal heirs of Respondent No.1 are being sought to be

brought on record by condoning the delay. There is a delay of 2 years 273 days in bringing the legal heirs of Respondent No.1 on record.

Perused the application.

I am satisfied that the delay has been satisfactorily explained and for the effective adjudication of the first appeal, the legal heirs of Respondent No.1 shall be brought on record. Necessarily, the application is allowed in terms of prayer clause (a). The necessary amendment shall be carried out forthwith.

CIVIL APPLICATION NO. 258 OF 2014

3. Counsel for the Appellant/Applicant states that he is not desirous of prosecuting the said civil application. Necessarily, it is disposed of.

FIRST APPEAL NO. 78 OF 2000

4. The first appeal arises out of the original judgment and decree passed by the City Civil Court at Mumbai and the challenge is posed on the grounds, which are set out in the memorandum of appeal. In the first appeal, defendant no.1 is one Kersi Ardeshir Rabadi, whereas Respondent No.2 is State of Maharashtra through the office of Controller of Accommodation. As far as Simla House Co-op. Housing Society Ltd., Mumbai, Respondent No.3, is concerned, the respective parties are ad-idem, that he is a proforma Respondent, and there is no relief sought against the said Respondent.

Under such circumstances, since the legal heirs of Respondent No.1 being brought on record, the learned Counsel appearing for Respondent

No.1 waive service in the first appeal for Respondent Nos.1(a) to 1(c), being legal heirs of Respondent No.1.

5. The first appeal is admitted on 9 January 2001 and is pending for final adjudication. Since the draft of the compromise arrived at between the Appellant and Respondent No.1 is ready, let the newly added Respondents, i.e. the legal heirs of Respondent No.1, ink the said draft compromise and place it before the court on the next date for hearing.

List for further hearing on 22 October 2021. Needless to state that in case, if any of the newly added Respondents is not available, the draft can be signed through the legal representative/constituted attorney holder as permissible under law.

(SMT. BHARATI DANGRE, J.)