

Santosh

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**INTERIM APPLICATION NO. 517 OF 2020
IN
SUIT NO. 261 OF 2010**

Nirmalaben N. Patel & anr. ...Applicant

In the matter between

Nirmalaben N. Patel & anr. ...Plaintiff

Versus

Pushpaben Chimanbhai Patel & ors. ...Defendants

And

Mukesh Bharatlal Patel ...Respondent

Mr. Neel Pungliya, for the Applicant/Plaintiff.

Ms. Shashikala Sharma, for Defendant nos.1 to 3, 7D and 15.

CORAM: N. J. JAMADAR, J.

DATED : 11th FEBRUARY, 2021

PC:-

1. Heard the learned Counsels for the parties.
2. Mr. Pungliya, the learned Counsel for the plaintiff, submits that he has filed an additional affidavit in support of the application alongwith copy of the death certificate of defendant no.2 Madhuben, issued by the Registrar of Births and Deaths, Bajwa, Taluka and District Vadodara, State of Gujarat.
3. The learned Counsel further submits that he has received a communication from Mr. Mukesh, who was sought to be impleaded as the legal representative of defendant no.2 to the

**V. S.
Parekar**

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effect that the name of his father and the husband of deceased defendant no.2 Madhuben is 'Bhogilal' and not Bharatlal. The learned Counsel thus seeks leave to amend the Schedule appended to the application.

4. Leave to amend.

5. Amendment be carried out forthwith.

6. The death certificate certifies that Madhuben – defendant no.2 expired on 4th December, 2009. The application is preferred within the statutory period of limitation. It is supported by the affidavit and copy of the death certificate. Hence, the application stands allowed.

7. The plaintiff is permitted to bring legal representatives of deceased defendant no.2 Madhuben on record.

8. Necessary amendment be carried out in the plaint in accordance with the Schedule of amendment.

9. Writ of summons be issued to defendant no.2A, returnable on 11th March, 2021.

10. Defendant no.2A is at liberty to file written statement appropriate to his character as the legal representative of deceased defendant no.2 within four weeks of being served with the writ of summons.

11. Copy of the amended plaint be served on the rest of the defendants within four week.
12. Interim application stands disposed.
13. Re-verification is dispensed with.

[N. J. JAMADAR, J.]