

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

CIVIL APPLICATION (CAS) NO.159/2020 WITH
CIVIL APPLICATION (CAS) NO.160/2020 WITH
CIVIL APPLICATION (CAS) NO.161/2020 WITH
CIVIL APPLICATION (CAS) NO.162/2020 IN
SECOND APPEAL NO.239/2010

Purushottam Vithalrao Tarekar

Vs.

Sk. Abbas s/o Sk. Gulab (dead) through LR's Munifabi w/o Sk. Abbas and others.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Shri Vivek Awchat, Advocate for appellants.

CORAM : S.M. MODAK, J.

DATE : OCTOBER 26, 2021.

Heard.

2. The respondent nos.2, 3 5(i) and 6 have expired. It was intimated to this Court vide Pursis Stamp No.11124/2019 dated 19/08/2019. Perused the pursis. There is a reason to believe the averments about knowledge of death of those four persons. Respondent No.3- Sk Bashir s/o Sk. Gulab expired on 17/12/2018 and respondent no.6- Champalal Govindram Varma expired on 14/11/2018. The appellants on their own collected this information. About dates of death of respondent no.2- Sk. Farid s/o Sk. Gulab and respondent no.5 (i) Syed Wazir s/o Syed Chand, appellant is not aware. In respect of death of respondent no.2 and respondent no.5(i), the appellant has considered the date of filing of pursis as the date of knowledge. In respect of death of respondent nos.3 and 6, the appellant has

2

considered the dates of their deaths as a starting point. For filing the application for respondent no.5(i), there is a delay of 503 days. The name of respondent no.2 has already been deleted as per the order dated 22/10/2019.

3. Notice is already served on the proposed legal representatives of three deceased respondents. They have not appeared. Hence, there is a reason to accept the explanation for condonation of delay in filing both the applications. Hence, the following order is passed.

ORDER

- i) The delay caused in filing the application for bringing legal representatives and caused in filing an application for setting aside abatement is condoned.
- ii) The names of respondent nos.5(i) and 6 be deleted and names of their proposed legal representatives are mentioned in the application be added.
- iii) All applications are disposed of.
- iv) Necessary amendment be carried out. As already notices of these applications are served on them, there is no need to issue fresh notice after carrying out the amendment.

JUDGE