

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

SECOND APPEAL NO.651 OF 2022
WITH CA/13709/2022 IN SA/651/2022

SHEELABAI SUKHDEV JAGDALE DIED LRS. KALYANI YOGESH
JAGDALE AND ORS.

VERSUS

MANOJKUMAR SURESHCHANDRA SANCHETI AND ANOTHER

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Advocate for Appellants : Mr. S.S. Thombre

AGP for Respondent No.1: Mr. Anand Bhandari h/f. Mr.
R.P. Totala

Advocate for respondent No.2: Mr. R.H. Dhakane.

CORAM : RAJESH S. PATIL, J.

DATE : DECEMBER 6, 2022.

P.C.:-

By this second appeal, order dated 2nd September, 2022 is challenged by two minor daughters of Mr. Yogesh Jagdale – through legal guardian – their mother i.e. Ashwini Yogesh Jagdale and by one Jeevan Sukhdeo Jagdale.

2. The application for bringing them on record as legal representatives of Smt. Sheelabai was filed by appellants after the death of Smt. Sheelabai Sukhdeo Jagdale (original appellant/original objector) before the appellate Court. The said application for bringing them on record was dismissed by the appellate court, pursuant to which, the appeal filed before

the appellate court stood abated.

3. After hearing the parties for some time, the advocate for the original decree holder – respondent No.1 herein, fairly stated, on instructions of his client, that he has no objection if Mr. Jeevan Sukhdeo Jagdeo is brought on record as legal representative of deceased Sheelabai. Therefore, on instructions of his client, who is personally present in the court, Mr. Bhandari states that he is giving no objection if the order dated 2.9.2022 is set aside and the matter concerning the application to bring legal representatives on record is directed to be re-heard by the learned first appellate court.

4. The advocate for the appellants has no objection if this exercise is done by the appellate court.

5. Hence, the order dated 2.9.2022 passed below Exh.28 in Regular Civil appeal No. 941 of 2022 is hereby set aside, with a direction to the appellate court (District Judge-7, Aurangabad) to re-hear the application Exh.28, (for bringing on record legal representatives of deceased Sheelabai Sukhdeo Jagdale on record) afresh.

6. The said exercise, to be done, after taking into consideration the legal provisions, so also, the consent given by the advocate for respondent No.1 as far as name of Mr. Jeevan Sukhdeo Jagdale, to be brought on record in the proceeding as a legal representative of deceased Sheelabai.

The learned District Judge shall complete this exercise expeditiously and make an endeavour to decide the application within a period of three months from the date of receipt of this order. The order of abatement is set aside.

7. The second appeal is accordingly disposed of. Civil application, if any, stands disposed of.

[RAJESH S. PATIL]
JUDGE

grt/-