

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

**906 CIVIL APPLICATION NO. 14553/2010
IN SA/197/2003**

**SHAIKH MAHEMOOD SK. MAHEBOOB LRS HAMIDABEE AND OTHERS
VERSUS
SMT. BEGUMBI W/O ABDUL RASHID AN OTHERS.**

...

Advocate for the Applicant : Mr. P. V. Barde.
Advocate for Resondent Nos. 7A to 7D : Mr. P.F. Patni.
Advocate for Respondent Nos. 10B to 10E : Mr. G. D. Shaikh (absent)
Advocate for Resondent Nos. 10(ii) : Mr. A. S. Bajaj.

**CORAM : MANGESH S. PATIL, J.
DATE : 05.04.2022.**

PER COURT :

Heard learned advocate Mr. Barde for the appellant.

2. One Mr. J.D. Shaikh learned advocate appears for the legal representatives of respondent No. 10 Aminabee namely respondent Nos. 10B to 10E. He also appears for them in Second Appeal No. 198/2003 where they have been arrayed as respondent Nos. 4/I to 4V.

3. Though the application has been styled as the one for setting aside abatement qua her and for bringing on record her legal representatives by condoning the delay, *ex facie* she was dead even before filing of the second appeal. If that be so, there was no question of any abatement of second appeal.

4. Though it is a matter of fact that her legal representatives ought to have been but were not brought on record before the lower appellate court, there is no question of abatement of second appeal since she had died before it was filed. The appellant could have directly indicated her legal representatives in the array of the respondents by mentioning all these facts

and could have sought leave of the Court to prosecute the second appeal even against them, if they were intending to do so.

5. The application is simply disposed of granting leave to the appellant to effect necessary amendment in the title clause as also in the body of the appeal memo.

6. Besides, there is respondent No. 9 in Second Appeal No. 197/2003. There is no record to show that though she is dead her legal representatives are to be brought on record or not. The appellant to clarify and if necessary take appropriate steps by the next date.

7. Stand over to 04.05.2022.

(MANGESH S. PATIL, J.)

mkd/-