

Arjun

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO.53 OF 2022
IN
SECOND APPEAL NO.569 OF 1994
WITH
INTERIM APPLICATION NO.2392 OF 2022
IN
SECOND APPEAL NO.569 OF 1994
WITH
INTERIM APPLICATION NO.2389 OF 2022
IN
SECOND APPEAL NO.569 OF 1994**

Sou. Bhagubai Shankar Thombare & Anr. ...Applicants

In the matter between

Sou. Bhagubai Shankar Thombare & Anr. ...Appellants

V/s.

Shri. Nana Bhau Keskar (deceased) ...Respondents

Through his legal heirs

1.Bhagubai Nana Kesarkar & Ors.

Mr. Ajit J. Kenjale, for the Applicants.

Mr. R. S. Alange, for Respondent No.1.

**CORAM : MADHAV J. JAMDAR, J.
DATE : 9th DECEMBER, 2022**

P.C.:

1. Heard Mr. Kenjale, learned counsel appearing for the

Applicants and Mr. Alange, learned counsel appearing for the sole Respondent.

2. The Civil Application No.53 of 2022 is taken out for restoration of the Second Appeal which has been dismissed for default by order dated 25th January, 2018 passed by this Court.

3. Interim Application No.2392 of 2022 is taken out for bringing on record the legal heirs of deceased Appellant No.2 who expired on 12th December, 2021. The Interim Application is filed on 22nd February, 2022 i.e. within time by taking into consideration the suspension of period of limitation by the Supreme Court due to Covid-19 pandemic.

4. Interim Application No. 2389 of 2022 is taken out for bringing on record the legal heirs of sole Respondent-Nana Bhau Keskar who passed away on 6th May, 2016. The Interim Application is filed on 24th February, 2022. Thus, there is considerable delay.

5. Mr. Alange, learned counsel appearing for the heirs of sole Respondent who are parties in Interim Application No.2389 of 2022 has strongly opposed the Interim Applications. However as sufficient reasons are given, the

Civil Application and Interim Applications deserves to be allowed.

6. The Interim Application No.2392 of 2022 is allowed in terms of prayer clause (a).

7. The Interim Application No.2389 of 2022 is allowed in terms of prayer clauses (a) (a1) & (b).

8. The Civil Application No.53 of 2022 is allowed in terms of prayer clauses (a) and (b).

9. All the Applications are allowed on the condition that, the Applicants pay cost of Rs.5000/- to the legal heirs of the sole Respondent within a period of two weeks from today.

10. Amendment to be carried out within a period of three weeks from today.

11. Both the Interim Applications and the Civil Application are disposed of in above terms.

(MADHAV J. JAMDAR, J.)