

Sharayu Khot.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 1197 OF 2021

IN

WRIT PETITION NO. 10859 OF 2018

Sunil Dwarkanath Amrute
Since deceased & Ors.

...Applicants

Versus

Smita Bharat Joshi since decd. & Ors.

...Respondents

Mr. Kashyap Bhalerao for the Applicants.

CORAM : R.I. CHAGLA J
DATE : 16 December 2022

ORDER :

1. Heard the learned Advocate appearing for the Applicants/Petitioner Nos. 1(a) to 1(c).

2. During the pendency of the Writ Petition, the Petitioner had expired on 14th May 2020. By an order dated 11th October 2018, this Court had granted stay of further proceedings of R.C.S. No. 564 of 2009 pending on file of learned Joint Civil Judge, Junior Division at Kalyan.

3. The Petitioner Nos. 1(a) to 1(c) states that they are the only legal heirs of the deceased Petitioner No. 1. Further cause of action survives after demise of Petitioner No. 1.

4. Petitioner Nos. 1(a) to 1(c) states that there is delay in filing the present Writ Petition, as the Petitioner expired during Covid 19 pandemic and in view of the global health emergency, the Petitioners could not file the Interim Application within time. There has been 168 days delay in filing the Interim Application.

5. Accordingly, condonation of delay has been sought. It is stated that grave and irreparable loss would be caused to the Petitioners, if the relief sought for in the Interim Application is not granted.

6. Having considering the averments in the Interim Application as well as taking note of the fact that the Petitioner No.1 expired during Covid 19 pandemic and that due to the global health emergency arisen therefrom, there has been delay in filing the Interim Application, which has been satisfactorily explained in the Interim Application, the relief sought for requires to be granted.

7. Further, in view of the Petitioner Nos. 1(a) to 1(c) being the only legal heirs of Petitioner No. 1, they are required to be brought on record in place and stead of Petitioner No. 1, particularly, noting that the right to sue survives.

8. Hence the following order is passed.:-

- (i) Delay of 168 days in filing the Interim Application is condoned.
- (ii) Petitioner Nos. 1(a) to 1(c) are permitted to substitute the original Petitioner No. 1 as his legal heirs and representatives in cause title of Writ Petition No. 10859 of 2018 and amendment shall be carried out accordingly, within a period of one week from the date of this order.
- (iii) Interim Application is accordingly, disposed of.

[R.I. CHAGLA J.]