

Sharayu Khot.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.127 OF 2022

IN

REJECTED CASE No. 98 OF 2019

IN

FIRST APPEAL (ST) NO. 26227 OF 2018

Dinesh Sakaru Pawar & Ors.

...Applicants

Versus

Union of India

...Respondent

Mr. Siddhesh Borulkar i/by Sainand Chaugule for the Applicant.

CORAM : R.I. CHAGLA J

DATE : 22 November 2022

ORDER :

1. Heard learned Advocate appearing for the Applicants/Appellants.

2. By this Civil Application, the Applicants have sought restoration of the First Appeal No. 26227 of 2018 to the file of this Court by setting aside the order dated 6th December 2018. Condonation of delay has also been sought in filing the present Civil Application.

3. The Applicants have stated that the present Civil Application had been taken out for bringing the legal heirs of the deceased Dinesh Sakru Pawar, who expired on 8th October 2013 during the pendency of claim application claiming compensation on account of injuries sustained by the said Dinesh Sakru Pawar due to untoward incident alleged to have occurred on 8th April 2011. The Applicants have stated that since the said Dinesh Sakru Pawar expired during the pendency of the proceedings before the Railways Claim Tribunal, the Applicants had filed the Application for being impleaded on record of the Tribunal, as the legal heirs of the deceased. The said Application was allowed vide order 30th April 2014. However, inadvertently when the impugned order dismissing the claim application was passed the title of the impugned order did not reflect the names of the legal heirs.

4. The Applicants have stated that the First Appeal was filed in the name of the present Applicants being the only legal heirs of the deceased Dinesh Sakru Pawar. However, since the Registry has raised an objection that the title of the First Appeal is not matching with the title of the impugned order, the Applicants were required to file Civil Application for bringing the legal heirs of the deceased

Dinesh Sakru Pawar on record. There was delay in taking out the Civil Application, as the death certificate of the deceased was unable to be traced. The death certificate of the deceased was required for filing the Civil Application. Further, there was delay as the Applicants were unable to contact their advocate for taking necessary steps for procuring the death certificate of the deceased.

5. In view of the conditional order dated 6th December 2018 passed by the Registrar Judicial -I, the First Appeal came to be dismissed for non removal of office objections. The Applicants have stated that the grave prejudice and irreparable loss will be caused to the Applicants, if the present Civil Application is not allowed. On the contrary, no prejudice will be caused to the Respondent, if the present Application is allowed.

6. I have considered the averments in the Civil Application as well as noted that the First Appeal came to be rejected by the conditional order dated 6th December 2018 for non removal of the office objection concerning the title of the First Appeal which did not match with the impugned order. Accordingly, the Applicants were required to file Civil Application for bringing the legal heirs on record

for which there was delay due to the non tracing of the death certificate of the deceased. I find that there is a satisfactory explanation for the delay. A case has been made out for grant of the relief sought. Hence the following order :-

- (i) Delay in filing the present Civil Application is condoned.
- (ii) First Appeal (St.) No. 26227 of 2018 is restored to file by setting aside the conditional order dated 6th December 2018.
- (iii) The office objections shall be removed by the Applicants within a period of four weeks from the date of this order.
- (iv) Liberty to the Applicants to apply for bringing the Applicants on record in the First Appeal.
- (v) Civil Application is accordingly, disposed of.

[R.I. CHAGLA J.]