

S.S.Kilaje

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO. 1211 OF 2015

Dilip Babubhai Shah and Ors.

.. Appellants

Versus

Babubhai Sardarmal Shah & Ors.

.. Respondents

WITH
INTERIM APPLICATION NO. 2984 OF 2020
IN
APPEAL FROM ORDER NO. 1211 OF 2015

WITH
INTERIM APPLICATION NO. 2988 OF 2020
IN
APPEAL FROM ORDER NO. 1211 OF 2015

WITH
INTERIM APPLICATION NO. 667 OF 2020
IN
APPEAL FROM ORDER NO. 1211 OF 2015

WITH
INTERIM APPLICATION NO. 2990 OF 2020
IN
APPEAL FROM ORDER NO. 1211 OF 2015

WITH
INTERIM APPLICATION NO. 2991 OF 2020
IN
APPEAL FROM ORDER NO. 1211 OF 2015

WITH
INTERIM APPLICATION NO. 2992 OF 2020
IN
APPEAL FROM ORDER NO. 1211 OF 2015

WITH
CIVIL APPLICATION NO. 1539 OF 2015
IN
APPEAL FROM ORDER NO. 1211 OF 2015

WITH
INTERIM APPLICATION NO. 2989 OF 2020
IN
APPEAL FROM ORDER NO. 1211 OF 2015

**WITH
INTERIM APPLICATION NO. 666 OF 2020
IN
APPEAL FROM ORDER NO. 1211 OF 2015**

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- Ms. K.R.Daviervalva i/by M/s. Mulla & Mulla & Craige Blunt and Caroe for the Appellants
 - Ms. Perna Shukla i/by Nitin V. Gangal for Respondent Nos. 4,7,10,11,12
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CORAM : MILIND N. JADHAV, J.

DATE : JULY 22, 2022

P.C.:

1. Ms. Daviervalva, learned counsel for appellants submits that appellants have taken out 8 interim applications viz. IA/2984/2020, IA/2988/2020, IA/667/2020, IA/2990/2020, IA/2991/2020, IA/2992/2020, IA/2989/2020 & IA/666/2020, for bringing the legal heirs of deceased respondents on record as some of the respondents have expired.

INTERIM APPLICATION NO. 666 OF 2020:-

2. By this application, applicants seek to substitute legal heirs of deceased respondent No.17 who has expired on 22.03.2019.

3. For the reasons mentioned in the application, delay of 211 days to file the application and bring the legal heirs on record stands condoned. Leave to amend is granted. Re-verification is dispensed with. Amendment to be carried out within two weeks from the date of uploading of the order as per the schedule appended to the Interim

Application. Once amendment is carried out, applicants are directed to serve the newly impleaded respondents and file appropriate affidavit of service and inform the newly added respondents about the hearing scheduled before the Mediator.

4. Interim Application No. 666 of 2020 stands disposed of.

INTERIM APPLICATION NO. 667 OF 2020:-

5. By this application, applicants seek to substitute legal heirs of the deceased respondent No.16 who has expired on 26th/27th January, 2019.

6. For the reasons mentioned in the application, delay of 264 days to file the application and bring the legal heirs on record stands condoned. Leave to amend is granted. Re-verification is dispensed with. Amendment to be carried out within two weeks from the date of uploading of the order as per the schedule appended to the Interim Application. Once amendment is carried out, applicants are directed to serve the newly impleaded respondents and file appropriate affidavit of service and inform the newly added respondents about the hearing scheduled before the Mediator.

7. Interim Application No. 667 of 2020 stands disposed of.

INTERIM APPLICATION NO. 2984 OF 2020:-

8. By this application, applicants seek to substitute legal heirs of deceased respondent No.5 who has expired on 08.06.2013.
9. For the reasons mentioned in the application, delay of 27 days to file the application and bring the legal heirs on record stands condoned. Leave to amend is granted. Re-verification is dispensed with. Amendment to be carried out within two weeks from the date of uploading of the order as per the schedule appended to the Interim Application. Once amendment is carried out, applicants are directed to serve the newly impleaded respondents and file appropriate affidavit of service and inform the newly added respondents about the hearing scheduled before the Mediator.
10. Interim Application No. 2984 of 2020 stands disposed of.

INTERIM APPLICATION NO. 2988 OF 2020:-

11. By this application, applicants seek to substitute legal heirs of deceased respondent No.1 who has expired on 06.02.2014.
12. For the reasons mentioned in the application, delay of 27 days to file the application and bring the legal heirs on record stands condoned. Leave to amend is granted. Re-verification is dispensed with. Amendment to be carried out within two weeks from the date of uploading of the order as per the schedule appended to the Interim Application. Once amendment is carried out, applicants are directed

to serve the newly impleaded respondents and file appropriate affidavit of service and inform the newly added respondents about the hearing scheduled before the Mediator.

13. Interim Application No. 2988 of 2020 stands disposed of.

INTERIM APPLICATION NO. 2989 OF 2020:-

14. By this application, applicants seek to substitute legal heirs of deceased respondent No.3 who has expired on 03.12.2016.

15. For the reasons mentioned in the application, delay of 1090 days to file the application and bring the legal heirs on record stands condoned. Leave to amend is granted. Re-verification is dispensed with. Amendment to be carried out within two weeks from the date of uploading of the order as per the schedule appended to the Interim Application. Once amendment is carried out, applicants are directed to serve the newly impleaded respondents and file appropriate affidavit of service and inform the newly added respondents about the hearing scheduled before the Mediator.

16. Interim Application No. 2989 of 2020 stands disposed of.

INTERIM APPLICATION NO. 2990 OF 2020:-

17. By this application, applicants seek to substitute legal heirs of deceased respondent No.2 who has expired on 06.03.2019.

18. For the reasons mentioned in the application, delay of 267 days

to file the application and bring the legal heirs on record stands condoned. Leave to amend is granted. Re-verification is dispensed with. Amendment to be carried out within two weeks from the date of uploading of the order as per the schedule appended to the Interim Application. Once amendment is carried out, applicants are directed to serve the newly impleaded respondents and file appropriate affidavit of service and inform the newly added respondents about the hearing scheduled before the Mediator.

19. Interim Application No. 2990 of 2020 stands disposed of.

INTERIM APPLICATION NO. 2991 OF 2020:-

20. By this application, applicants seek to substitute legal heirs of deceased respondent No.28 who has expired on 06.10.2015.

21. For the reasons mentioned in the application, delay of 27 days to file the application and bring the legal heirs on record stands condoned. Leave to amend is granted. Re-verification is dispensed with. Amendment to be carried out within two weeks from the date of uploading of the order as per the schedule appended to the Interim Application. Once amendment is carried out, applicants are directed to serve the newly impleaded respondents and file appropriate affidavit of service and inform the newly added respondents about the hearing scheduled before the Mediator.

22. Interim Application No. 2991 of 2020 stands disposed of.

INTERIM APPLICATION NO. 2992 OF 2020:-

23. By this application, applicants seek to substitute legal heirs of deceased respondent No.33 who has expired on 05.06.2013.

24. For the reasons mentioned in the application, delay of 27 days to file the application and bring the legal heirs on record stands condoned. Leave to amend is granted. Re-verification is dispensed with. Amendment to be carried out within two weeks from the date of uploading of the order as per the schedule appended to the Interim Application. Once amendment is carried out, applicants are directed to serve the newly impleaded respondents and file appropriate affidavit of service and inform the newly added respondents about the hearing scheduled before the Mediator.

25. Interim Application No. 2992 of 2020 stands disposed of.

26. Ms. Daviervalva on instructions submits that appellants have already compromised and settled the matter/*lis* with respondent Nos. 42 to 85 and in that view of the matter seeks leave of this Court to delete the names of respondent Nos. 42 to 85. Affidavit to that effect shall be filed by the appellants within two weeks from the date of uploading of the order.

27. Leave to delete respondent Nos. 42 to 85 as prayed for is granted.

28. Amendment to be carried out within two weeks from the date of

uploading of the order. Re-verification stands dispensed with.

29. Both learned counsel appearing for the parties submit that as suggested by this Court on the previous occasion, they have taken instructions from their clients and are ready to go before the Court appointed Mediator for reconciliation / settlement.

30. Mr. Vishal Kanade, Advocate practicing in this Court and having his office at 103, Gundecha Chambers, Nagindas Master Road, Fort, Mumbai (Mobile No. 9819668711) is appointed as Mediator to mediate on all issues and disputes between the parties. Appellants shall pay 50% of the fee whereas respondent Nos. 4,7,10,11,12, who are the principle contesting respondents shall bear the remaining 50% fees of the Mediator. The Mediator is requested to submit his report within a period of 8 weeks from today.

31. Appeal from Order No. 1211 of 2015, stood over to **20th September, 2022.**

[MILIND N. JADHAV, J.]

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SONALI SATISH
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