

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

***INTERIM APPLICATION NO.3406 OF 2020
IN
FIRST APPEAL NO.895 OF 2001***

Shri Govindrao Dhondo Patil ...Applicant

IN THE MATTER BETWEEN

Shri Narayan Abaji Patil ...Appellant

V/s.

Shri Baburao S. Patil & Ors. ... Respondents

...

Mr. Dinesh W. Bhosale for the Applicant in IA 3406/20 and for
R.No.3 in FA 895/2001.

CORAM : SANDEEP K. SHINDE J.

DATE : MARCH 1, 2022.

P.C. :

Heard.

2 Order XXII Rule 3 of the Code of Civil Procedure, 1908 contemplates, the procedure, in case of death of one of several plaintiffs or sole plaintiff. When sole plaintiff dies and the right to sue survives, the Court, on an application made in that behalf, shall cause the legal representative of the deceased plaintiff to be made a

party and shall proceed with the suit. However, where within the time limited by law, no application is made under Rule 3(1), the suit shall abate so far as the deceased plaintiff is concerned. Application in hand is moved by the respondent no.3 falling under Sub-rule (2) of Rule 3 of Order XXII of the CPC. True copy of the death certificate of the sole appellant is placed on record, who died on 28th April, 2009. It appears, application under Sub-rule (2) has not been preferred by anyone.

3 In that view of the matter, appeal abates.

4 Application is disposed of in aforesaid terms.

(SANDEEP K. SHINDE, J.)