

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

***FIRST APPEAL NO.422 OF 2005
WITH
INTERIM APPLICATION NO.2464 OF 2021
WITH
XOB (ST) NO.7570 OF 2006
WITH
INTERIM APPLICATION NO.2519 OF 2019***

Smt. Rukmini Vinaychandra @
Vinodchandra Bhagat ...Appellant
Vs
Arunkumar Vinaychandra &
Vinodchandra Bhagat & Anr. ... Respondents
...

Mr. A.J.Almeida for the Appellant in FA/422/2005 and for
applicant in IA/2519/2019.
Mr. Mehul A. Shah for applicant in IA/2464/2021 and for
respondents in FA 422/2005.

***CORAM : SANDEEP K. SHINDE J.
DATE : MARCH 7, 2022.***

P.C. :

1. Pending Appeal, Rukmini Bhagat, appellant in First
Appeal No.422/2005 passed away. Therefore, Interim
Application No. 2464//2021 is moved to bring her legal
representatives on record.

2. In the said Appeal, Rukmini's son-Arunkumar has filed Cross-Objections (St.) No. 7570/2006. He moved Interim Application No. 2519/2019 to bring legal representatives of Rukmini (his mother) on record, in cross-objections.

FACTS :

3. Rukmini Bhagat instituted Suit No. 3781/1993 seeking decree of perpetual injunction against her son-Arunkumar and daughter-in-law. Later in point of time, Rukmini's son and daughter-in-law, filed Suit No. 6848/1993 against her seeking decree of perpetual injunction. Suit property in these suits was one and the same. Both suits were dismissed on 11th June, 2004. Rukmini preferred First Appeal No.422/2005 wherein her son filed Cross-Objections (St.) No. 7570/2006. Yet, Arunkumar Bhagat, son of Rukmini, instituted partition Suit No. 7449/2003; seeking decree of partition in respect of same property, which is subject matter of First Appeal. In that suit, Rukmini was the defendant. Pending First Appeal and partition Suit No. 7449/2003,

Rukmini passed away on 29th August, 2019. Therefore, the legal representatives of Rukmini were brought on record in partition Suit No. 7449/2003. In the said suit, consent decree has been drawn in February, 2022. Copy of the consent terms executed by parties and duly attested by learned Counsel for the parties is taken on record and marked “X-1” for identification. In this view of the matter, Appeal instituted by Rukmini Bhagat against the decree refusing perpetual injunction, as well, as the cross-objections filed by Arunkumar, have been rendered infructuous.

3. In consideration of the facts stated above, for completion of the procedure, Interim Applications No.2464/2021 and 2519/2019 moved in First Appeal and Cross-Objections to bring the legal representatives of deceased, Rukmini on record are allowed. Consequential amendments in Cross-objections and the First Appeal shall be carried out before 25th March, 2022.

4. Re-verification is dispensed with.
5. For all that reasons, leave to withdraw the Appeal and cross-objections is granted. Registry shall return the original documents admitted in evidence and placed on record, to the parties, in terms of paragraph-528 (Chapter-XXII) of the Civil Manual.
6. First Appeal and the Cross-Objections therein alongwith all applications are disposed of.

(SANDEEP K. SHINDE, J.)