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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.3349 OF 2016
IN
FIRST APPEAL NO.1700 OF 2011

Mr. Bhaskar Badrinarayan Singh & Ors.

...Applicants/
Appellants

Versus

Mr. Diwakar Badrinarayan Singh

...Respondent

Mr. Prem Sood for the Applicants / Appellants.

CORAM : R.I. CHAGLA J

DATE : 21ST NOVEMBER, 2022

ORDER :

1. By this Civil Application, the Applicant is seeking amendment to the First Appeal in accordance with the schedule annexed to the Civil Application. The Applicant No.1 expired on 12th May, 2015. The Applicant No.1 was survived by his two sons Ratnakar Singh and Vikas Singh. His wife pre-deceased the Applicant No.1. One of the sons viz. Subhash Singh expired on 22nd August, 2003 leaving behind his widow and four children mentioned in

paragraph 2 of the Civil Application. In view thereof, the Applicant Nos.2 to 4 have taken out the present Civil Application for deletion of name of the Applicant No.1 and for the legal heirs and legal representatives of Applicant No.1 to be brought on record as by way of substitution for Applicant No.1. Copy of the death certificate of Applicant No.1 is at Exhibit A to the Civil Application and at Exhibit B the copy of death certificate of one of the sons of Applicant No.1, viz. Subhash Singh.

2. There has been delay in filing the Civil Application which has been explained in paragraph 3 of the Civil Application. The delay is stated to be of 339 days. It is stated that the Civil Application was dismissed for non payment of Bhatta charges, but was subsequently restored and the Civil Application could not be brought within limitation for bringing the heirs of Applicant No.1 on record. It is further stated that there is no wilful default or negligence on the part of the Applicants.

3. Respondent No.1, though served as borne out by the Affidavit of Service dated 5th September, 2022 has failed to make an appearance. Accordingly, the relief sought for in the Civil Application requires to be granted. Further, I find that a satisfactory explanation

has been given for the delay in filing the present Civil Application.

Accordingly, the following order is passed:-

- (i) The delay in filing the Civil Application is condoned.
- (ii) The Applicants are permitted to amend the Civil Application as per schedule annexed to the Civil Application.
- (iii) Amendment shall be carried out within a period of two weeks from the date of this Order.
- (iv) Civil Application is accordingly disposed of.

[R.I. CHAGLA J.]