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

**SECOND APPEAL NO. 261 OF 2020
WITH
INTERIM APPLICATION NO. 3380 OF 2019
IN
SECOND APPEAL NO. 261 OF 2020
WITH
INTERIM APPLICATION NO. 17144 OF 2022
IN
SECOND APPEAL NO. 261 OF 2020
WITH
INTERIM APPLICATION NO. 17145 OF 2022
IN
SECOND APPEAL NO. 261 OF 2020**

Shri. Somnath Kashinath Avhad & Ors. ...Appellants
vs.
Shri.Shankar Bhimaji Avhad & Ors. ...Respondents

Mr.Hashain Kazi i/b. Mr.B.S.Shinde, Advocate for Appellants.
Mr.Shivram Avhad, Advocate for Respondents No.1, 3 & 5.
Mr.Shivram Avhad – Respondent No.2 in person.

CORAM : S. M. MODAK, J.
DATE : 21st SEPTEMBER, 2022

P. C. :-

INTERIM APPLICATION NO. 17145 OF 2022

1. Heard learned Advocate for the Applicants and learned Advocate for Respondents No.1, 3 and 5. The Appellant No.2 – Zumber expired on 3rd September, 2021. Copy of death certificate is annexed. There is a delay of 236 days in filing Application for bringing or LRs. The other side is not opposing.

2. In view of that, Application is allowed in terms of prayer clauses (a), (b) and (c). Necessary amendment be carried out within three weeks. Amended copy be served on the Respondents.

3. Interim Application is disposed of.

INTERIM APPLICATION NO. 17144 OF 2022

4. Respondent No.7 – Krishnaji expired on 24th May, 2022. Copy of death certificate is annexed. Though the notice is issued to the proposed LR's, yet compliance is to be made. Necessary compliance be made by the Applicants. Notice is returnable on 28th November, 2022.

SECOND APPEAL NO. 261 OF 2020

5. It is submitted on behalf of the Respondents that Applicant No.1 – Somnath has also expired. In Interim Application No.17145 of 2022, the LR's of deceased Somnath are described. The Applicants to clarify whether they have been described after taking permission from the Court or otherwise. If it is not, then necessary steps be taken.

INTERIM APPLICATION NO. 3380 OF 2019

6. It is submitted on behalf of learned Advocate for the Applicants that the arguing Counsel is out of station and hence, ad-interim granted on the last date be continued till next date. It is opposed on behalf of Respondents for the reason that the issue mentioned before this Court in the order dated 17th February, 2020 is factually incorrect as there are sufficient documents to show that notice of measurement was already given to the parties. Affidavit to that effect is also filed by Respondents No. 1, 3 and 5. It is also served on the Applicants.

7. It is made clear that on the next date, the Applicants may not seek for adjournment. If it is sought, then an ad-interim relief would not

continue.

8. In view of that, ad-interim relief is continued till next date. Stand over to 28th November, 2022.

[S. M. MODAK J.]