

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

**INTERIM APPLICATION NO. 4298 OF 2021
IN
FIRST APPEAL NO. 120 OF 2016**

Rajesh Vishnukumar Rathi	...	Applicant
IN THE MATTER BETWEEN		
Mukunddas Vithaldas Rathi and Anr.	...	Appellants
Versus		
Hansraj Merchant	...	Respondent

Mr. Shantam Mandhyan a/w Mr. Abhay Jariwala i/b Vidhi Partners, for
the Applicant.

**CORAM : V. G. BISHT, J.
DATE : 3rd January, 2022.**

PC:

Heard learned Counsel for the applicant.

2 According to learned Counsel, during the pendency of the present Appeal, appellant No.1 passed away on 12th September, 2018. A certificate (Exh.A) to that effect is filed on record. Accordingly, learned Counsel seeks permission to delete the name of deceased appellant inasmuch as survive appellant No.2 is already on record. Permission granted.

**REKHA
PRAKASH
PATIL**

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Rekha Patil

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3 Similarly, respondent Hansraj Merchant expired on 28th January, 2020. By way of present application the appellant wants to bring the Legal Representatives of said deceased respondent Hansaraj Merchant, the details of which are given in the schedule annexed to the application. In view of order passed by the Hon'ble Apex Court in Miscellaneous Application No. 665 of 2021 in SMW(C) No. 3 of 2020, while computing the period of limitation the period from 15th March, 2020 till 2nd October, 2021 will have to be excluded. In view of this, the present application is well within limitation.

4 In view of above, the following order is passed.

ORDER

- (i) Application is allowed in terms of prayer clauses (a) and (b) and stands disposed of accordingly.
- (ii) Amendment to be carried out within one week from today.
- (iii) Issue notice to newly added respondents, returnable on 7th February, 2022. In addition to the Court notice, appellant is permitted to serve the Respondents by private notice i.e. by registered A.D./courier/hand delivery and shall file affidavit of service before the next date.

(V. G. BISHT, J.)