

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

**INTERIM APPLICATION NO. 18785 OF 2022
IN
FIRST APPEAL NO. 591 OF 2005**

Aavadayachi Ammal Yadav Ramalal & Ors. ... Applicants
S. Ramlal (since deceased) & Anr. ... Appellant
(Orig. Plaintiffs)
Versus
Rizwan Ramzanali (since deceased)
through LRs
1(a) Irfan Ali Salmani & Ors. ... Respondents

Mr. S.P. Srivastava for the Appellant.
Mr. Abhay L. Patki for Respondent Nos.1 and 2.

CORAM : R.I. CHAGLA, J.
DATED : 23rd NOVEMBER, 2022.

ORDER :

1 Heard the learned Counsel for the parties.

2 The Applicants have by this Interim Application seeks permission to bring the legal heir of the deceased Appellant No.1 on record and to carry out amendment in the Memo of Appeal as per the schedule annexed with the Civil Application and consequential amendment thereof.

3 The Original Appellant No.1 was the husband of Applicant No.1 and father of Applicant Nos.2 to 4. The Original Appellant No.1 expired on 30.07.2022 leaving behind the Applicants as the legal heirs of the deceased-Original Appellant No.1. The Interim Application has been taken out within time i.e. on 29.08.2022 and it is stated that after the death of Original Appellant No.1, the cause of action survives to proceed with the Appeal. Accordingly, the present Interim Application has been taken out.

4 The learned Advocate appearing for the Respondents submits that the Respondents have no objection to the relief sought for in the Interim Application. He states that a cross objection has been filed by the Respondents and consequential amendment is required to be made in the cross objection as amendment made in the Memo of Appeal.

5 In view thereof, Applicant Nos.1 to 4 who are legal heirs of the Original Appellant No.1 requires to be brought on record in his place. It is noted that the Interim Application is also filed within the prescribed period of time. The Appellant No.1 having expired on 30.07.2022 and the present Interim Application filed on 29.08.2022. Accordingly, the following order is passed :

- i) The Applicants are permitted to bring the legal heirs of Original Appellant No.1 on record in the Appeal in place and stead of Original Appellant No.1 by carrying out amendment in the Memo of Appeal as per schedule annexed to the Interim Application and consequential amendment thereof.
- ii) The amendment shall be carried out within a period of two weeks from the date of this order.
- iii) Consequential amendment shall also be carried out in the cross objection.
- iv) Interim Application is accordingly disposed of.

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(R.I. CHAGLA, J.)