

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

SECOND APPEAL NO.299 OF 2015

Harjeet Singh Kalyan Singh Marwa (Dead) through his legal heirs 1- Narinderpal
Singh s/o Harjeet Singh Marwash and others

Vs.

Kashinath s/o Baliram Samrit (Dead) through legal heirs 1.a) Digambar Kashinath
Samrit and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. A. S. Shukla, Advocate for appellant no.1(a to c) .
Mr. Naidu, Advocate for respondent no.1 (a to d and f).
Mr. S. S. Rao, Advocate for respondent nos. 1(e and g)

CORAM : AVINASH G. GHAROTE, J.
DATE : 19/09/2022

Civil Application (CAS) No.959 of 2022

1. Mr. Naidu, learned counsel for the respondent no.1 (a to d and f) submits that within a week, the details of the legal heirs of respondent no.6 shall be furnished to the learned counsel for the legal heirs of appellant no.1, considering which, Civil Application No.959 of 2022, is allowed

Civil Application (CAS) No.64 of 2022

1. Civil Application No.64 of 2022 has been filed by the appellants for deleting the name of appellant no.4.

2. Mr. Naidu, learned counsel appearing for the respondent no.1(a to d and f) and Mr. Rao, learned counsel for the respondent for 1 (e and g), have no

objection, considering which, Civil Application No.64 of 2022, is allowed, at the risk and consequences of the appellants.

Civil Application (CAS) No.629 of 2022

1. Heard Mr. Naidu, learned counsel for the respondent no.1 and Mr. Rao, learned counsel for the respondent no.1(e and g), who vehemently oppose the Civil Application No.629 of 2022 for condonation of delay in filing an application for setting aside abatement against appellant no.7 on record, on the ground that though the other appellants were aware of the demise, they have not made any efforts to bring the legal heirs within time.

2. The application for condonation of delay in filing an application for setting aside abatement against appellant no.7, has been filed by his legal heirs, who have pleaded that they were not aware of the litigation being fought by their father and upon having acquired knowledge of the same, they immediately filed the application. The said explanation is not one, which could be said to be unreasonable, unless something is brought on record by the respondents to indicate that only one of the appellant was prosecuting the litigation on behalf of all, which is not the case, in the present matter. That being the position, Civil Application No.629 of 2022, seeking condonation of delay is allowed.

Civil Application (CAS) No.630 of 2022**Civil Application (CAS) No.632 of 2022**

1. Civil Application No.630 of 2022 seeks setting aside abatement against the appellant no.7 and Civil Application No.632 of 2022 seeks to bring the legal heirs of appellant no.7 on record. Both the applications for the reasons stated therein, are accepted and allowed.

2. The legal heirs of the deceased appellant no. 7 be brought on record by the end of the week.

3. List the matter after four weeks.

JUDGE

Sarkate