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

Civil Application [CAS] Nos.867, 868 & 869 of 2018
in
Civil Application [CAS] No.373 of 2016
in
Second Appeal St. No.13689 of 2014

Prakash s/o Maroti Deshpande & others
vs.
Narhari s/o Shankar Dabhadkar & others

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Office notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's Orders

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Mr. P.R. Parsodkar h/f Mr. R.S. Parsodkar, Advocate for the Applicants/Appellants.

CORAM : S.M. MODAK, J.
DATE : 6th JUNE, 2022.

Heard learned Advocate Mr. Parsodkar for the applicants/appellants.

02] Respondent No.3-Vitthal Marotirao Sanap expired on 05/12/2015. A copy of death certificate issued by Sindkhed Raja Municipal Council is annexed to Civil Application No.868/2018. He expired after the Regular Civil Appeal was decided on 14/03/2014. The appellants came to know about his death when notice was offered for service on him. There are four legal representatives of deceased Vitthal. Their details are given in paragraph 2 of Civil Application No.869/2018.

03] The notices were issued to them. It was learnt that the respondent No.3(a)-Smt. Kaveri wd/o Vitthal Sanap has also expired and, accordingly, the learned Registrar (Judicial) abated the appeal against her. There is a delay of 791 days in filing the necessary application. The appellants got knowledge only when they came to know about her death when service was offered. It is true that respondent No.3 expired after Regular Civil Appeal was decided and when this second appeal is filed.

There is sufficient reason for condonation of delay. The other legal representatives though served, have not appeared. Therefore, all the applications need to be allowed. Hence, the order:

O R D E R

i. Abatement of the appeal against respondent No.3 is set aside.

ii. Delay caused in bringing the legal representatives is condoned.

iii. The legal representatives mentioned in Civil Application No.869/2018 be brought on record.

iv. Necessary amendments be carried out.

v. After carrying out the amendments, fresh notices be issued to the newly added respondents.

vi. All the civil applications are allowed and disposed of accordingly.

Civil Application No.373/2016 :

Heard the learned Advocate for the appellants.

02] The first appellate Court decided the matter on 14/03/2014. There is a delay of one day in filing the appeal. It was due to sickness of the appellants. Notices were issued and they are served on the proposed respondent Nos.5 and 6. There is no appearance.

03] Considering the reasons mentioned in the application, the delay is condoned. The application is disposed of.

Civil Application No.870/2018:

Now the appellants want to correct the address of respondent No.1.

02] Hence, the application is allowed. The appellants are permitted to add new address of respondent No.1 in the memo of appeal.

Civil Application No.42/2015:

Heard.

02] The proposed respondent Nos.5 and 6 were the appellant Nos.4 and 3 before the first appellate Court along with the present appellants. Now they have not filed the second appeal along with the present appellants, that is why the appellants want to implead them as party-respondents.

03] Hence, the appellants are permitted to join the original appellant No.3-Prabha Kulkarni and original appellant No.4-Jayanti Khese as respondent Nos.5 and 6. The application is disposed of.

04] The appeal be kept for admission on 13th June, 2022.

JUDGE

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Signed by:SANDESH DAULATRAO WAGHMARE
Private Secretary to the Hon'ble Judge
Signing Date:09.06.2022 16:03