

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

CIVIL APPLICATION (CAO) NO.816/2021
IN
MISC. CIVIL APPLICATION NO.1287/2014
IN
SECOND APPEAL NO.195/1998

Hasinabi Mohmadkha and others

Vs.

Rashidkha s/o Hasankha and others.

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri V.P. Panpalia, Advocate for applicants/appellants
Shri C.A. Joshi, Advocate for respondents.

CORAM : S.M. MODAK, J.

DATED : 06/06/2022

The respondent No.2- Haroonkha s/o Hasankha expired on 25/04/2020. Earlier respondent No.1 Rashidkha and applicant No.4 Usmanakha have also expired. During the pendency of the relevant applications for them, the applicant was in the process of taking necessary steps. During that exercise it was known that respondent Nos.2 and 3 have expired. That is how, all these applications are made. So far as respondent No.2 is concerned, there are five legal representatives of respondent No.2 and their details are mentioned in Civil Application No.818/2021. They are represented by

learned Advocate Shri Joshi. He is consenting for allowing all these applications.

2. There is a delay of 436 days in filing applications. In view of the above submissions, all the applications are allowed. The delay caused in filing an application for setting aside the abatement and for bringing legal representatives of respondent no.2 on record is condoned. The abatement is set aside. The legal representatives be brought on record. Necessary amendment be carried.

3. Learned Advocate Shri Joshi for legal representatives of respondent No.2 also waives notice.

4. All applications are disposed of.

CIVIL APPLICATION NO.732/2017

Respondent No.1- Rashidkhan s/o Hasankha expired after disposal of the Second Appeal by this Court and prior to filing Review Application. His legal representatives are mentioned in paragraph No.4 of the application. In such a situation, an application under Order-1 Rule- 10 read with Order 22 Rule-4 of the Code of Civil Procedure is maintainable.

2. Learned Advocate for the appellants relied upon a judgment in the case of *Devidas Vs. Gangubai* reported in 2017 (1) Mh.L.J. 225. The legal representatives are represented through learned Advocate Shri Joshi. He is not having any objection. In view of that, name of respondent No.1 be deleted and name of his legal representatives be added. Necessary amendment be carried.

3. Learned Advocate Shri Joshi for legal representatives waives notice.

4. Application is disposed of.

CIVIL APPLICATION NO.819/2021 WITH

CIVIL APPLICATION NO.820/2021 WITH

CIVIL APPLICATION NO.821/2021

Respondent No.3- Fatmabi w/o Ajamkha expired on 21/11/2018. Her legal representatives could not be brought on record in time. There is a delay of 956 days in filing necessary applications. The details of her legal representatives are mentioned in paragraph No.3 of Civil Application No.821/2021.

2. Learned Advocate Shri Jagirdar has filed power for respondent No.3. The information about death was

not supplied to learned Advocate for the applicants. The reasons are mentioned in the applications.

3. In view of that all the applications are allowed. Delay caused in filing an application for setting aside abatement and for bringing legal representatives of respondent no.3 is condoned. The abatement is set aside. Legal representatives be brought on record.

4. The applicants in the Review application are already served through their learned Advocate Shri S. Jagirdar.

CIVIL APPLICATION NO.596/2021 WITH
CIVIL APPLICATION NO.597/2021 WITH
CIVIL APPLICATION NO.598/2021

Appellant No.4- Usmankha S/o Mohmadkhan expired on 13/06/2017. Necessary application could not be filed. There is a delay of 155 days in filing application.

2. Learned Advocate Shri Joshi for legal representatives of respondent Nos.1 and 2 is not opposing. In view of that all the applications are allowed. Abatement in respect of appellant No.4 is set aside. Delay condoned. His legal representatives mentioned in Civil Application No.598/2018 be brought on record.

Necessary amendment be carried out. Copy of amended application be served. All applications are disposed of.

3. The matter be kept after **three weeks**.

[JUDGE]

R.S.Sahare