

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

940 SECOND APPEAL NO.105 OF 2007
WITH CA/11802/2022 IN SA/105/2007 WITH
WP/7007/2006 WITH CA/15308/2022 IN SA/105/2007

DAULAT TUKARAM THOTE
VERSUS
SARJERAO ASARAM BAVNE AND ORS.

...

Advocate for Appellant : Mr. C. V. Bodkhe h/f Mr. Gore
Ravindra Vitthal.

Advocate for Respondent Nos.1A to 1H : Mr. Deshpande M. K.

Advocate for Respondent Nos.3D1, 3D2 : Mr. B. S. Dhawale.

Advocate for Respondent Nos.2A1 to 2A7 : Mr. Jiwan J. Patil.

...

CORAM : S. G. MEHARE, J.

DATE : 31.08.2023

PER COURT :-

1. Heard the learned counsels for the respective parties.
2. The appeal is pending since 2007. Admittedly, there is delay in bringing the legal heirs on record. All the reasons for delay may be considered as argument.
3. Learned counsels for the respondents have strongly opposed the way in which the applications have been drafted. He has pointed out that the learned counsel for the applicant should have point out the delay separately for each of the cause of action. But, it has not been done.

4. It is always expected that the rights of the parties shall be adjudicated on merit. The appeal has been admitted in 2007. Hence, lenient view may be taken. Hence, the following order :

ORDER

- (i) Both Civil Applications are allowed.
- (ii) The amendment be carried out within two weeks.
- (iii) In Second Appeal, issue notice to the proposed legal heirs.
- (iv) Learned counsel waives the service of notice for the proposed legal heirs.
- (v) Name of respondent No.4 be corrected in Civil Application No.11802 of 2022.
- (vi) List the matter on 14.09.2023.

(S. G. MEHARE, J.)

...

vmk/-