

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 3146 OF 2022
IN FIRST APPEAL NO. 3048 OF 2019

VINOD KARMASHI PATEL AND ANOTHER
VERSUS
PACHAN MEGHAJI PATEL AND OTHERS

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Mr. N.K. Kakade – Advocate for Applicants
Mr. C.K. Shinde – Advocate for Respondent Nos.2, 4, 5 and 8
Mr. V.S. Bedre – Advocate for Respondent Nos.3 and 7
Mr. G.P. Darandale – Advocate for Respondent No.6
Mr. K.D. Bade – Advocate for Respondent Nos.9 to 12

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CORAM : SANDIPKUMAR C. MORE, J.
DATE : 10th April, 2023

PER COURT :

1. Leave to correct the title of the application by showing respondent no.1 as dead person.
2. Heard rival submissions.
3. By way of this application the applicants – original plaintiffs are seeking addition of parties who are present respondent nos.13 and 14-A to 14-C.
4. The learned counsel for the applicants submits that, the

respondent no.13 and 14 are the daughters of deceased respondent no.1 – Pachan Meghaji Patel, who were not brought on record before the lower Court. Subsequently, respondent no.14 is also no more and respondent no.14-A to 14-C are her legal representatives.

5. The learned counsel for respondent nos.3 and 7 and the learned counsel for respondent nos.9 to 12 strongly opposed the application by relying on the affidavit-in-reply of respondent no.3. According to them, the original suit has been dismissed for non-joinder of respondent nos.13 and 14 by the learned Trial Court and therefore, the appellants cannot fill up the lacuna in the appeal.

6. It appears that, the learned Trial Court has already observed that the applicants – plaintiffs could not prove the nature of suit property being Joint Family Property and therefore, this aspect is to be established by the applicant mainly. So far as addition of respondent no.13 and 14-A to 14-C is concerned, this is only technical aspect which can be cured at the appellate stage also, since the applicants have

already accepted them as the legal representatives of deceased respondent no.1.

7. In view of the same, the application is allowed and the applicants are permitted to add respondent no.13 and 14-A to 14-C as party to this appeal.

8. The application is accordingly disposed of.

9. The amendment to be carried out within stipulated period.

10. After carrying out amendment notice be issued to newly added respondents. In addition to Court notice, private service is permitted to serve newly added respondents.

11. List the appeal for admission on 15th June, 2023.

12. Parties shall maintain status-quo till then.

[SANDIPKUMAR C. MORE]
JUDGE

Pooja K.