

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

**CIVIL APPLICATION NO.12122 OF 2023
IN SA/339/2005**

**DASHRATH RAOJI PAIKRAO LRS. KESHARBAI AND OTHERS
VERSUS
ABASAHEB SHAHURAO VATANE AND ORS**

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Advocate for Applicants : Mr. Vinod Y. Bhide
Advocate for Respondents : Mr. R.R. Suryawanshi h/f Mr. V.D. Sapkal
and Mr. S.R. Sapkal

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CORAM : S.G. MEHARE, J.

DATED : NOVEMBER 29, 2023

PER COURT:-

1. This is an application moved suo moto by the legal heirs of sole respondent Dashrath Raoji Paikrao. He died during the pendency of the appeal. The appellants did not apply for bringing them as legal heirs on record. However, knowing about the pendency of this appeal, they suo moto appeared before the Court and filed an application under Order 1 Rule 10(2) of the Civil Procedure Code. They wanted to represent the deceased respondent and his property. The counsel for the appellants has no objection to take them on record.

2. Learned counsel for the applicants states that they had applied before the Executing Court for possession and to arraigned them as legal heirs. However, the Executing Court was telling them

that the second appeal is pending. Hence, they moved an application suo moto before the Court.

3. Though an application has been titled as an application under Order 1 Rule 10(2) of the Civil Procedure Code, the applicants wanted to represent the sole deceased respondent in whose favour the decree was passed. One way or other, the deceased respondent is getting representation. Hence, the order :

ORDER

- (i) The application is allowed.
- (ii) The applicants to be taken on record as legal heirs of deceased sole respondent.
- (iii) This is an appeal preferred by the defeated defendants. He is the master of his appeal memo. Hence, the appellants are directed to bring all these applicants as legal heirs by making necessary amendment.
- (iv) Amendment be carried out on or before the next date.
- (v) Stand over to 15.01.2024.

(S.G. MEHARE, J.)