

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

**CIVIL APPLICATION NO. 17185 OF 2022
IN SECOND APPEAL NO. 198 OF 2003
WITH
CIVIL APPLICATION NO. 17187 OF 2022
IN SECOND APPEAL NO. 197 OF 2003**

**ABDUL KAYYUM MANNAN QURESHI DIED LRS. SAIDA BEGUM
DIED SAYEED QURESHI QAYYUM QURESHI AND ORS
VERSUS
SHAIKH MEHMOOD SK MAHBOOB DIED LRS. SMT. HAMIDABEE
SK. MAHEMOOD AND ORS.**

Mr. A. H. Vakil, Advocate for the applicants
Mr. P. V. Barde, Advocate for respondent Nos. 1-a to 1-e.

CORAM : R. M. JOSHI, J.

DATE : 23rd MARCH, 2023

PER COURT :-

1. Learned counsel for the original appellants seeks leave to treat the affidavit-in-reply filed in Civil Application No. 17187/2022 in 17186 of 2022. Leave is granted.
2. These applications are filed by the legal representatives of deceased respondent No.6 in CA No. 17185/2022 and respondent No.2 in CA No. 17187/2022 to bring themselves on record after condonation of delay of 2895 days in preferring these applications. Original appellant/respondent No. 2 in this application filed affidavit-in-reply stating that there was no intimation to him with regard to the death of deceased respondent No.4B. It is further stated that he is not

aware about the legal representatives of the deceased. Therefore, according to him an enquiry under Order XXII Rule 5 of the Code of Civil Procedure is necessary.

2. It is responsibility of the appellants to bring LR's of deceased party on record. However that does not preclude the LR's of deceased respondent to bring themselves on record by moving such application. As far as the enquiry sought by the applicants about the determination of question as to legal representatives, there is no dispute made by any of the parties about the present applicants being legal representatives of deceased respondent No.4B. Thus, no enquiry is necessary as contemplated by Order XXII Rule 5 of CPC.

3. It is further contended that the other respondents are not joined as a party to these applications. Since it is a responsibility of the applicants to bring LR's of deceased person on record, non joining of all other respondents by the legal representative who are not the party to the proceedings, cannot be faulted with. No prejudice will cause to the other respondents, if the LR's of the deceased are brought on record.

4. Perusal of the reply filed by the applicant/respondent No.2 herein shows that he does not contest the reason for the delay. For the reasons mentioned in the applications, this Court is of the view that no

malafides can be attributed to the applicants for not making an application within time to bring themselves on record. Hence applications stand allowed in terms of prayer clauses 'B' and 'C'. Applicants are directed to carry out necessary amendment.

(R. M. JOSHI, J.)

ssp