

R.M. AMBERKAR
(Private Secretary)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6695 OF 2019
WITH
INTERIM APPLICATION NO. 1334 OF 2022
WITH
INTERIM APPLICATION NO. 1338 OF 2022
WITH
INTERIM APPLICATION NO. 1344 OF 2022

Nagesh Vitthal Sawant

.. Petitioner

Versus

Shantisudha Shantaram Nadkarni & Ors.

.. Respondents

-
- Mr. Mahesh Vijay Rawool for Petitioner
 - Mr. Pravin G. Sawant for Respondent Nos. 2 & 4 to 6
-

CORAM : MILIND N. JADHAV, J.

DATE : FEBRUARY 20, 2023

P.C.:

INTERIM APPLICATION NO. 1334 OF 2022:

1. Heard Mr. Rawool, learned Advocate for the Applicant / Petitioner and Mr. Sawant, learned Advocate for Respondent Nos. 2 & 4 to 6.

2. Present Interim Application is taken out for bringing legal heirs of deceased Respondent No. 3 on record by condoning delay.

3. Perused the Interim Application. For the reasons stated therein, Interim Application No. 1334 of 2022 is allowed and disposed of in terms of payer clauses (a) to (c). Amendment to be carried out forthwith. Re-verification stands dispensed with.

INTERIM APPLICATION NO. 1338 OF 2022:-

4. Heard Mr. Rawool, learned Advocate for the Applicant / Petitioner and Mr. Sawant, learned Advocate for Respondent Nos. 2 & 4 to 6.

5. Present Interim Application is taken out for bringing legal heirs of deceased Respondent No. 2 on record by condoning delay.

6. Perused the Interim Application. For the reasons stated therein, Interim Application No. 1338 of 2022 is allowed and disposed of in terms of payer clauses (a) to (c). Amendment to be carried out forthwith. Re-verification stands dispensed with.

WRIT PETITION NO. 6695 OF 2019 a/w I.A. 1344 OF 2022:

7. Heard Mr. Rawool, learned Advocate for Petitioner and Mr. Sawant, learned Advocate for Respondent Nos. 2 and 4 to 6.

8. Learned Advocates appearing for the parties have tendered Minutes of Order dated 20.02.2023. Copy of the same is taken on record and marked “X” for identification. The Minutes of Orders have been signed by Petitioner, Power of Attorney of Respondents as well as their respective Advocates. Undertakings given are accepted as undertaking given to the Court. For convenience, the scanned copy of the Minutes of Order is reproduced hereunder:-

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X m. Tended in court
Rd. 20/12/2023

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
IN ITS CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 1344 OF 2022

IN

WRIT PETITION NO. 6695 OF 2019

MR. Nagesh Vitthal Sawant Petitioner

Vs.

Shantisudha Shantaram Nadkarni and Ors. Respondents

MINUTES OF ORDER

1. The Petitioner had filed an application bearing Tenancy Case No. 61 of 2013 u/s. 70B of the Maharashtra Tenancy & Agricultural Lands Acts before Ld. ALT, Sawantwadi. The said application was allowed by Ld. ALT on 24.09.2015.
2. Thereafter Respondent No. 1 died on 21.09.2014. The Respondent No. 3 had filed an appeal bearing No. 13 of 2017 alongwith application for condonation of delay before the Ld. Sub Divisional Officer, Sawantwadi as a power of attorney of all the Respondents where the deceased Respondent No. 1 was also made a party appellant, without disclosing that she was dead on 21.09.2014.

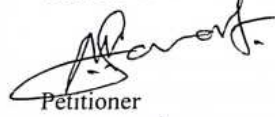
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3. The Ld. SDO on 01.06.2018 was pleased to reject Application for condonation delay in Appeal No. 13 of 2017 filed before him, hence Respondent No.3 for himself and as power of attorney holder of Respondent Nos. 1,2 and 4 to 6 filed Tenancy Revision Application TNC/REV/SND/221 of 2018 before Ld. Maharashtra Revenue Tribunal, at Mumbai. Even in said Revision Application deceased Respondent No.1 made party Applicant No.1. The Ld. MRT by its order dated 28.02.2019 was pleased to allow said Revision Application by setting aside order passed by Ld. SDO and condoned delay in filing Tenancy Appeal on payment of cost to the Petitioner.
4. Being aggrieved by the order dated 28.02.2019 passed by Ld. MRT, the Petitioner has filed present Writ Petition. During the pendency of the present writ petition Respondent No.3, Ravindranath Shantaram Nadkarni and Respondent No 2 Gurunath Shantaram Nadkarni expired, which fact was brought on the record of the present petition on behalf of the Respondents.
5. In view of the fact that the appeal before SDO and revision application before MRT was filed in the name of a dead person, impugned order 03.10.2018 passed by the Ld. Maharashtra Revenue Tribunal in TNC/REV/SND/221 of 2018 and order dated 01.06.2018 passed by Ld. SDO in Appeal No. 13 of 2017 are set aside.

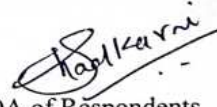
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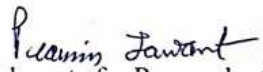
6. The Respondents is at liberty to file fresh Tenancy Appeal before Sub Divisional Officer, Sawantwadi challenging the order dated 24.09.2015 passed by Ld. ALT in Tenancy Case No. 61 of 2013 within 1 month from today. The present minutes will be filed by the Respondents before Ld. SDO Sawantwadi. Both the parties will co-operate SDO Sawantwadi in early disposal of the said Appeal. The Ld. SDO shall dispose off the said appeal within a period of 12 months from its filing.
7. All questions including limitation are expressly kept open.
8. Present writ petition is disposed of in terms of above, No Order as to costs.

DATED : 20.02.2023


Petitioner


Advocate for the Petitioner


POA of Respondents


Advocate for Respondents

9. In view of the above, Writ Petition is disposed. In view of disposal of the Writ Petition, nothing survives in Interim Application No. 1344 of 2022. The same is also disposed.

[MILIND N. JADHAV, J.]