



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 634 OF 2017

IN

SECOND APPEAL NO.183 OF 1993

Haibati Ishwara Parit

(Deceased through L.Rs.)

Sanju Haibati Parit And Ors.

...Applicants

Versus

Baburao Krishnarao Mohite

(Deceased through L.Rs.)

Anusaya Baburao Mohite and Ors.

...Respondents

Mr. T.S. Ingale, for the Applicants.

Mr. Wasim N. Samlewale, for Respondent Nos. 3 and 4.

CORAM : JITENDRA JAIN, J.

DATE : 15th SEPTEMBER, 2023

P.C.

Heard Mr. Ingale, learned Counsel for the Applicants and Mr. Samlewale, learned Counsel for Respondent No.3 and 4.

2. Learned Counsel for the Applicants informs that the present civil application was served on Respondent Nos. 1 and 2. However, none appeared for Respondent Nos. 1 and 2. Learned

Counsel for the Applicants undertakes to file an affidavit of service within a period of one week from today stating that the present civil application was served on Respondent Nos. 1 and 2.

3. The present application is taken out for setting aside the abatement order dated 23rd March 2015 and to bring legal heirs of deceased Appellant No.1 B on record.

4. We have perused the civil application and the delay has been explained in paras 3 and 4 of the application. The Court is of the view that since the Appellants are villagers, illiterate and farmers, in the light of what is stated in para 3 and 4 of the present application, the delay in filing the civil application be required to be condoned.

5. The abatement order dated 23rd March 2015 is set aside and Appeal No.183 of 1993 is restored to be heard on merits.

6. The Applicants are directed to carry out the necessary amendment to bring the legal heirs of deceased Appellant No.1 B on record within a period of four weeks from today.

7. Civil Application No.634 of 2017 is disposed of in terms of the above order.

8. Appeal be listed for hearing on 16th October 2023.

[JITENDRA JAIN, J.]