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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 18054 OF 2022
IN
SECOND APPEAL NO. 7 OF 2023

Ikbal Hamid Kotwadekar & Ors. ...Applicants
Versus
Hasanminya Abdullah Kotwadekar & Ors. ...Respondents

Mr. Tanmay Vispute, h/f. Mr. Onkar Warange and Ms. Nilima Sarvagod, for the Applicants.

Mr. Malhar Bageshwar, i/b. Mr. Sanjiv Sawant, for the Respondents.

CORAM : MADHAV J. JAMDAR, J.
DATED : 11th JANUARY 2023

P.C. :

1. Heard Mr. Tanmay Vispute, learned counsel appearing for the Applicants and Mr. Malhar Bageshwar, learned counsel appearing for the Respondents.

2. The Interim Application is taken out to bring on record the legal heirs and representatives of deceased Respondent No.24. Deceased Respondent No.24 passed away on 2nd August 2020 and the application is taken out on 28th July 2022. The Applicants have stated that this Court by order dated 5th March

2021 issued notice to the Respondents and as per the Bailiff's report, *inter alia* the Respondent No.24 was reported to be dead and therefore, the Applicants came to know about the death of Respondent No.24. Certain reasons are set out in the application about the Applicants being not aware about the legal provisions of bringing on record heirs of deceased Respondent No.24 and health problem of the Applicants.

3. The Interim Application is strongly opposed by the learned counsel appearing for the Respondents. He submitted that reasons given are not sufficient reasons. He relied on the decision of the Supreme Court in Petition for Special Leave to Appeal No.2054-55 of 2022 in **Lingeswaran Etc. vs. Thirunagalingam**[1]. He submitted that the Interim Application be dismissed.

4. At the outset, it is to be noted that there is no reply filed to the Interim Application and therefore, contentions raised in the Interim Application have remained uncontroverted. There are sufficient reasons given in the Interim Application.

5. The decision of the Supreme Court on which the learned counsel appearing for the Respondents have relied, in that case,

1 Petition(s) for Special Leave to Appeal (C) Nos. 2054-2055/2022

the learned Trial Court has come to the conclusion that no sufficient reasons are assigned and inspite of such conclusion has condoned the delay. The said decision of the Supreme Court will not apply to the present case.

6. For the reasons set out in the Interim Application, the same is allowed in terms of prayer clauses (a) and (b).

7. Amendment be carried out within a period of two weeks from today.

8. The Interim Application is disposed of in above terms with no order as to costs.

[MADHAV J. JAMDAR, J.]