

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION (ST) NO. 30657 OF 2022
IN
CIVIL APPLICATION NO. 1734 OF 2013
IN
FIRST APPEAL NO. 1447 OF 2004

Mr. Anup Mohanlal Motawani ...Applicant

SNEHA
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Date: 2023.12.07
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In the matter between:

Rewachand L. Ramchandani (since
deceased) through Legal Heirs & Ors. ...Appellants

Versus

Hemantkumar Chaganlal Lavana and ...Respondents
Ors.

WITH
CIVIL APPLICATION NO. 1734 OF 2013
IN
FIRST APPEAL NO. 1447 OF 2004

Rewchand L. Ramchandani (since ...Applicants
deceased) through Legal Heirs & Ors.

Versus

Hemantkumar Chaganlal Lavana and ...Respondents
Ors.

Ms. Pratibha Shelke i/b Suryajeet Chavan for the Applicants.
Mr. Narendra Walawalkar, Senior Advocate a/w Ms. Devyani
Deshmukh and Ms. Meetali Mendhe i/b M/s. Solomon & Co. for the
Respondents.

CORAM : M.M.SATHAYE J.
DATE : 5th DECEMBER 2023

PC. :

1. Heard both sides. At the outset, the learned counsel appearing on behalf of the Applicants in IA(ST) No. 30657 of 2022, seeks leave to amend and add the name of additional legal heir of deceased Appellant No.1 (Rewachand L. Ramchandani) viz 'Ms. Sweettee Sai' as proposed Appellant No.1C. Leave granted. Amendment to be carried out within a period of one week from today. This application is filed for bringing legal heirs of deceased Appellant Nos.1 and 1A on record.

2. IA No. 1734 of 2023 is filed for restoration of above first appeal by setting aside the order dated 23.07.2012 under which the appeal was dismissed for non removal of office objections.

3. Apparently there is delay in filing both the applications.

4. Learned counsel for the Respondents/original decree holder has opposed grant of present applications in view of inordinate delay in filing the applications, both for restoration and for bringing legal heirs on record.

5. Perusal of the order by which the appeal is dismissed, shows that it was for non removal of office objections. Resultantly substantive first appeal is dismissed. In that view of the matter, an opportunity needs to be afforded to the aggrieved party i.e. Defendants to prosecute their substantive first appeal.

6. So far as delay in filing applications are concerned, in view of the averments in the applications, sufficient cause is made out. In that view of the matter and in the interest of justice and in order to ensure that the parties get a fair chance to proceed on merits in substantive first appeal, the following order is passed:

(i) IA No. 1734 of 2013 is allowed in terms of prayer clauses (a) and (b). The delay is condoned. Appeal is restored to file.

(ii) IA(ST) No. 30657 of 2022 is allowed in terms of prayer clauses (a), (b) and (c). The delay is condoned. Applicant is permitted to bring legal heirs of Appellant No.1 i.e. proposed Appellant No. 1B & 1C on record. Necessary amendment be carried out within a period of one week from today.

(iii) Both Interim Applications are disposed off in above terms.

(iv) All concerned to act on authenticated or digitally signed copy of this Order.

[M.M.SATHAYE,J.]