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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO.13380 OF 2022**

Jaibun Abdulgani Patwegar ... Petitioner

**V/s.**

Ibrahim Abdulgani Patwegar & Ors. ... Respondents

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Mr. Nilesh Wabale with Ms. Bhavika Shinde i/by Mr.  
Umesh Mankapure, for petitioner.

Mr. Vachan Bodke a/w Ms. Ankita V. and Mr. Hitesh  
Gupta i/by V & M Legal, for respondent No.3.

**CORAM : AMIT BORKAR, J.**

**DATED : OCTOBER 16, 2023**

**P.C.:**

1. By this writ petition plaintiff No.2 in Special Civil Suit No.75 of 2015 is challenging the order dated 27 July 2022 rejecting application filed by legal representatives of plaintiff No.1 to bring them on record.

2. It appears that while considering such application, the Trial Court recorded finding on merit that plaintiff No.1 do not have enforceable right as regards prayer sought. The expression right to sue survives or not needs to be adjudicated based on the rights of legal representatives and not the rights of the parties to the suit. Whether party to the suit who expired had enforceable right to

claim relief in the suit has to be decided as per the established procedure under the Code of Civil Procedure, 1908. However, the application to bring legal representatives of plaintiff No.1 on record could not have been rejected on the ground that plaintiff No.1 had no enforceable right to claim relief.

3. Therefore, this petition succeeds as the impugned order dated 27 July 2022 passed by the Civil Judge, Senior Division, Sangli below Exhibit 68 in Special Civil Suit No.75 of 2015 is quashed and set aside.

4. The application below Exhibit 68 in Special Civil Suit No.75 of 2015 stands allowed.

5. Considering the fact, the suit is of the year 2015, it shall be decided as expeditiously as possible.

**(AMIT BORKAR, J.)**