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

CIVIL REVISION APPLICATION NO.28 OF 2017

Indrachand Bankatlal Joshi ... Applicant

V/s.

Madanlal Mohanlal Bohra ... Respondent

WITH

INTERIM APPLICATION NO.15660 OF 2023

IN

CIVIL REVISION APPLICATION NO.28 OF 2017

Indrachand Bankatlal Joshi (Deceased)

Through Legal Heirs ... Applicants

V/s.

Madanlal Mohanlal Bohra (Deceased)

Through Legal Heirs ... Respondents

Mr. Suryajeet P. Chavan, for Applicant.

CORAM : AMIT BORKAR, J.

DATED : DECEMBER 4, 2023

P.C.:

1. The civil revision application arises out of rejection of application under Order 7, Rule 11 of the Code of Civil Procedure, 1908. The original suit is for compensation on the ground of defamation. During pendency of the suit the plaintiff was died. The nature of right claimed in the suit is personal in nature. During pendency of suit right to sue shall not survive with the

legal representatives, in such a suit. It is only, if the decree is passed, the rights vests with the legal representatives and only in appeal they can be brought on record. The position in that regard is no longer *res integra*.

2. In view of the judgment in the case of **Melepurath Sankunni Ezhuthassan Vs. Thekittil Geopalankutty Nair**, reported in (1986) 1 SCC 118, the right to sue does not survive with the legal representatives. Hence, the revision application is disposed of as abated.

3. Consequently, the Civil Suit No.35 of 2016 also does not survive as the sole plaintiff has died during pendency of the suit.

4. The Civil Suit No.35 of 2016 pending before the Court of Civil Judge, Senior Division, Ichalkaranji, is also abated.

5. In view of disposal of civil revision application, the interim application does not survive.

6. Disposal of the suit shall not affect the rights of legal representatives to claim any other reliefs, if are available in law.

(AMIT BORKAR, J.)