

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
INTERIM APPLICATION NO. 1616 OF 2022
IN
TESTAMENTARY SUIT NO. 112 OF 2013
IN
PETITION NO. 1582 OF 2012

Shri. Ramesh Ramnath Rele

...Deceased

In the matter between

Shraddha Ramesh Rele

...Applicant

Shraddha Ramesh Rele

...Plaintiff(Ori. Petitioner)

Subhashini Subhash Rele & Ors.

...Respondents

Vs.

Shashikala Shridhar Rajpurkar and Ors.

...Defendants (Ori. Caveators)

Mr. Milind T. Shewale for the Applicant.

Mr. Tushar V. Dahibawkar i/b. M/s. Dahibawkar & Co. for the Defendnat No. 2.

CORAM : ARIF S. DOCTOR, J.

DATE : 10th JANUARY, 2023

P.C. :

1. By the present Interim Application the Applicant seeks to bring on record the legal heirs of Defendant No.2, who is stated to have passed away on 2nd November, 2019, as more particularly set out in paragraph No. 5 of the Interim

Application.

2. The learned Counsel appearing on behalf of the Applicant submits that, Defendant Nos. 1 and 3 have been served and undertakes to file the Affidavit of service within a period of one week from today.

3. The learned Counsel for the Defendant No. 2 submits that the legal heirs of Defendant No.2 were supposed to attend his office, but they failed and neglected to do so.

4. This Court, by its previous order dated 06/12/2022, had recorded the request of the learned Counsel for the deceased/Defendant No.2 for time to contact the legal heirs of Defendant No.2. Based on this submission, despite being contacted, they did not approach him.

5. I find no reason to keep the present Interim Application pending. The Interim Application seeks reliefs which are formal in nature.

6. The Interim Application is therefore allowed in terms of prayer clauses (a) and (b) which read thus:

a) That the delay of 222 days in taking out the instant Interim Applicant may

be condoned by this Hon'ble Court and the abatement of this suit against the Defendant No. 2 may be set aside;

b) The Plaintiff may be allowed to carry out the amendments in the petition (suit) as mentioned in the Schedule annexed to this Interim Application and may also be allowed to re-declare the same.

7. Amendment to be carried out within a period of two weeks from today and the copy of the amended plaint to be served upon all the Defendants including newly added Defendants.

8. The Interim Application is disposed of accordingly.

(ARIF S. DOCTOR, J)