

Rajeshri Aher

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO. 277 OF 2019
IN
TRUST PETITION NO. 1 OF 2001
WITH
NOTICE OF MOTION NO. 3 OF 2023
IN
APPEAL NO. 277 OF 2019

Niranjani Narottamdas Merchant
(Deceased) Thr. Lrs. Poonam Ranjit
Kapadia

...Appellant

Versus

Ravindra Narottamdas Merchant (Deceased
Thr. Lrs.) and Anr.

...Respondents

....

Mr. R.S. Apte, Senior Advocate a/w Mr. Samir Vaidya, Advocates for
Appellant.

None for Respondents.

....

CORAM : K. R. SHRIRAM &
RAJESH S. PATIL, JJ.

DATED : 24th March 2023

P.C.:

1 The impugned order is dated 28th November 2018, by which the Court has directed the name of Respondent No.1, Niranjani Narottamdas Merchant, who had expired, be deleted. The Court has also passed order with the consent of Petitioner in the Petition, who was original Respondent No.1 in the Appeal, and now represented by three legal heirs, and Respondent No.2. Mr. Apte states that the rights of legal heirs (daughters) of Niranjani Narottamdas Merchant has not been

considered by the Court while passing the order dated 28th November 2018. Of- course, there is nothing in the order to indicate that the counsel for Niranjani Narottamdas Merchant had brought to the attention of the court that the legal heirs (daughters) of the said Niranjani Narottamdas Merchant also may have some right or interest.

2 Learned single judge perhaps was conscious of this, and hence, included paragraph 12 in the impugned order dated 28th November 2018, which reads as under :

“12. Liberty to the parties to apply should there be any difficulty”.

3 Mr. Apte states that the legal heirs (the daughters, who are represented by Mr. Apte) of Niranjani Narottamdas Merchant would apply to the learned single judge for modification/necessary reliefs.

4 Appeal accordingly disposed with liberty, as prayed for.

5 Ad-interim application also stands disposed.

6 All rights and contentions are kept open.

7 We clarify that we have not made any observations on the merits of the matter.

(RAJESH S. PATIL, J.)

(K. R. SHRIRAM, J.)