

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CIVIL APPLICATION (CAS) NO. 258/2021

IN

SECOND APPEAL STAMP NO. 2208/2020

Abdul Habib Abdul Rauf (dead) through Sheikh Naeem Abdul Habib and others
Vs.

Kamalbai Wd/o Devidas Shinde and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders

Court's or Judge's orders

Shri T.S. Deshpande Advocate for appellants

CORAM : SMT. M.S. JAWALKAR, J.

DATE : 16/02/2023

In spite of service to the contesting witnesses, none appears for respondent. It is the contention of the applicant that the father of applicants was arrayed as respondent in the appeal preferred by the original plaintiff. He expired on 08/12/2018. However, for want of knowledge, this fact was not brought to the notice of the learned Appellate Court. As such, names of legal representatives could not be brought on record before the Appellate Court. It is further submitted, being legal legal representatives right to sue survives. As such, leave may kindly be granted to file present appeal against impugned judgment to the legal representatives of the respondent No. 1-C(applicants).

2. Considering the reasons, application is allowed.
3. The applicants are permitted to prefer present appeal substituting names of their father Abdul Habib Abdul Rauf.
4. Application is allowed.
5. Leave is granted as prayed.

(SMT. M.S. JAWALKAR, J.)