

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

CIVIL APPLICATION (CAS) NO.475/2023

IN
SECOND APPEAL NO.653/2006

Shri Jasbir Singh s/o Harbansing Man (dead) thr. LR's Randhir Singh s/o Harbansing
Man and others

Vs.

Shri Virendrakumar s/o Kasturchand Jaiswal and others

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

Court's or Judge's orders

Shri Abhijeet Khare, Advocate for appellant
Shri H.D. Futane, Advocate for respondent Nos.3, 4, 5(A) and 8

CORAM : ANIL L. PANSARE, J.

DATED : 28/06/2023

Leave to amend Civil Application
No.475/2023 is granted.

2. Amendment to be carried out forthwith.
3. By present application, the appellant is seeking permission to delete the name of respondent No.2 who expired on 02/06/2010 leaving behind the legal representatives, who are appearing in the present appeal as respondent Nos.3 to 5 (c).
4. The learned Counsel for appellants submits that since legal representatives are already on record, he be permitted to delete the name of respondent No.2.
5. Permission is granted as prayed for.
6. Necessary amendment be carried out forthwith.

7. The application is disposed of in above terms.

CIVIL APPLICATION (CAS) NO.179/2023

Leave to amend Civil Application No.179/2023 is granted.

2. Amendment be carried out forthwith.

3. By present application, the appellant is seeking condonation of delay of 181 days and setting aside the abatement of respondent No.7 and further to bring on record his legal representatives. The respondent No.7 has expired on 20/09/2021 leaving behind legal representatives as mentioned in paragraph No.2 of the application. The legal representatives though served have not appeared personally or through the Advocate.

4. There occurred delay of 181 days in filing the application for setting aside abatement. The learned Counsel for appellant submits that the delay has been caused because appellant had no knowledge of death of respondent No.7. They got knowledge from the Counsel for respondent No.7, who filed pursis on 10/01/2023. Thereafter, within 15 days, the application has been filed. Thus, the delay has been justified and therefore requires condonation.

5. In view of above and for the reasons stated in the application, the application is allowed.

6. The delay in filing application for setting aside abatement and for permitting to bring on record

legal representatives of respondent No.7 is condoned.

7. The abatement is set aside. The appellant is permitted to bring on record the legal representatives of respondent No.7.

8. Necessary amendment be carried out within one week from today and amended copy be served to other side.

9. The application stands disposed of in above terms.

(ANIL L. PANSARE, J.)

R.S. Sahare