

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

CIVIL APPLICATION (CAS) NO. 295 OF 2023
IN
SECOND APPEAL NO. 140 OF 2020

SMT. KAUSALYABAI WD/O. HARIBHAU THOOL (DEAD) THR. LRS. 1. SHRI BALAJI S/O. HARIBHAU THOOL
AND ORS

...**VERSUS**...

SOU. KALPANA W/O. BABARAO SHAMBHARKAR

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

Court's or Judge's order

Shri Subhash Kalbande, Advocate for appellants/applicants.
Shri D.R.Bhoyar, Advocate for respondent.

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

DATE : 08th MARCH, 2023

The present application is filed for leave to file appeal by legal heirs of deceased Vinod Deoraoji Dandekar who was respondent no. 2 before First Appellate Court.

2. The respondent no. 2 (appellant no. 2 in the instant appeal) died during the pendency of First Appeal and the said appeal came to be abated after prescribed period of 90 days against respondent no. 2 and the decree came to be passed against the dead person. Though, the present appeal came to be filed showing Shri Vinod as appellant, he is no more alive and an inadvertent mistake has occurred on the part of the applicants. As such, leave is granted to the legal heirs of deceased Vinod Deoraoji Dandekar to file appeal. However, so far as prayer Clause (2) of the present application is concerned, it is a matter of merit. As such, it cannot be

granted at this stage. Accordingly, the application stands disposed of in above terms.

3. Permission is granted to substitute the names of legal heirs, in place of deceased Vinod Deoraoji Dandekar, as the appellant.

4. Necessary amendment to be carried out within one week.

CIVIL APPLICATION (CAS) NOS.1135/22 AND 1136/2022

In view of leave granted as per above CAS No. 295/2023, applications for condonation of delay and for bringing the legal heirs of appellant no. 2 on record, are disposed of.

CIVIL APPLICATION (CAS) NO. 70 OF 2021

On 22/02/2023, learned counsel for the respondent had made a statement that he will not press for execution, same to continue till next date.

SECOND APPEAL NO. 140 OF 2020

R and P be called.

(Smt. M.S. Jawalkar, J.)