



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CIVIL APPLICATION NO. 3035 OF 2024
IN WP/2993/2024**

**DATTATRAY TUKARAM POPALGHAT AND ANOTHER
.....Petitioner**

VERSUS

**THE DIVISIONAL JOINT REGISTRAR COOPERATIVE SOCIETIES
AND OTHERS**

.....Respondent

Mr. D. M. Shinde, Advocate for the applicant
Mrs. A. S. Mantri, AGP for the respondents/State
Mr. M. S. Shaikh, Advocate h/f Mr. Ashish P. Deshmukh,
Advocate for respondent No.4

CORAM : S. G. MEHARE, J.

DATE : 08th APRIL, 2024

P. C.

1. Issue notice to the respondents.
2. Learned APP waives service of notice for the respondents/State.
3. Mr. Deshmukh, learned counsel waives service of notice for the respondent No.4.
4. It is noticed again a foreign practice of praying the court by a separate civil application to bring the legal heirs of

the deceased party who died before filing the petition in the High Court. This is not the correct procedure. Order XXII of the CPC apply to the cases where the party dies during suit, proceeding or the litigation is pending. However, if party dies either after the pronouncement of judgment or before filing the appeal the legal heirs may file appeal or petition directly in their name and against the legal heirs of defendant. Every person whose rights are affected by the judgment or order has a right to impugn the judgment and decree passed against the deceased. It has been told that office asked the parties to file separate application for bringing LRs on record. Such objections should be brought to the notice of the court. Incorrect practice has been adopted to file separate application for bringing LRs of the party to the suit who is already dead before the appeal is preferred. The petition is filed after the death of respondent No.5. He died after the impugned order was passed. Hence, no separate application to bring them on record is required. Hence, civil application stands disposed of with liberty to join LRs of the deceased respondent No.5 as party to the main petition. Leave granted to the learned counsel to add the legal heirs of respondent No.5. Amendment be carried out forthwith.

[S. G. MEHARE, J.]