



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

**918 CIVIL APPLICATION NO. 9422 OF 2022
IN SA/587/2018**

**WITH
SECOND APPEAL NO. 587 OF 2018
WITH
SECOND APPEAL NO. 82 OF 2022**

**KASHINATHAPPA GURSIDDAPPA KASNALE DIED LRS.
SATISH AND OTHERS
VERSUS
SHIVAMMA SIDDAPPA SINDARKERE DIED LRS KAMALBAI
AND OTHERS**

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Mr. Jayant R. Patil, Advocate for the applicants.
Mr. S.S. Chillarge, Advocate for respondent Nos.2, 3/1 & 3/2.

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CORAM : SANDIPKUMAR C. MORE, J.

DATED : 21 February 2024

ORDER:-

IN CIVIL APPLICATION NO. 9422 OF 2022 :

1. Learned Counsel for respondent Nos. 2, 3/1, 3/2 filed affidavit-in reply. Taken on record. Copy is furnished to other side.
2. Heard rival submissions.
3. The applicants, who are original respondent Nos. 4 to 6 are seeking their transposition as appellants in Second Appeal No. 587 of 2018 being the legal heirs of original appellant Kashinathappa, who admittedly died on 05.03.2022. The applicants want to transpose them as an appellants on the basis of Will Deed executed by Kashinath during his life time in their favour wherein suit properties are mentioned.
4. The respondent Nos. 2, 3/1 and 3/2 opposed the

application by filing affidavit in reply. The learned Counsel on their behalf contended that the suit properties are in the name of Siddhappa and therefore, Kashinath was not having any right to bequeath the same under the aforesaid Will.

5. However, this fact can be considered on merit at the time of hearing of the second appeal. Further, the aforesaid respondents have also filed another second appeal to the extent of rejection of their cross-objection. Moreover, these respondents have also filed one civil suit challenging the aforesaid Will, which is pending. Therefore, irrespective of contentions raised by the rival parties, the present applicants can be transposed as an appellants to prosecute the appeal further as the original appellant is no more. In view of the same, the application stands allowed in terms of prayer clauses (B) and (C). The amendment be carried out within stipulated period.

6. Civil Application No. 9422 of 2022 is accordingly disposed of.

7. List the other matters on 07.03.2024.

(SANDIPKUMAR C. MORE, J.)