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921-ca-6958-23

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

**921 CIVIL APPLICATION NO. 6958 OF 2023
IN SECOND APPEAL NO. 131 OF 2019**

**PURSHOTTAM GOPAL CHAUDHARY AND OTHERS
VERSUS
MANMAL SHIVLAL SANCHETI DEAD THROUGH LRS LALCHAND AND
OTHERS**

...
Advocate for Applicants : Mr. Kshitij H. Surve (thr.V.C.)
Advocate for Respondent No.3 : Mr. Y.G. Gujarathi (thr.V.C.)

...
AND
SECOND APPEAL NO. 131 OF 2019

...
CORAM : Y. G. KHOBRAGADE, J.
DATE : 03.05.2024

PER COURT :

1. As per office note dated 26.02.2024, the proposed legal heirs (i) and (ii) of respondent No. 1(4-d) are unserved for want of their correct address.
2. On 22.04.2024, Mr. Gujarathi, learned counsel appeared for the proposed legal heirs of the respondent no. 1(4-d) had made a statement that he has not received the copy of the present application and the counsel for the applicant had undertaken to supply the copy of the Civil Application within a period of one week. However, today both the counsel inspite of making statement about service of copy of Civil Application, they are making irrelevant submissions.

3. It is not in dispute that the respondent No.1(4-d) Pushpa Prakashji Jain (Guleccha) expired on 30.10.2022 and cause of action survives. There is also delay of 100 days for filing such application and setting aside abatement.

4. For the reasons stated in the application, the delay of 100 days caused in filing present application is hereby condoned. The abatement is quashed and set aside.

5. The applicants are permitted to bring the proposed legal heirs of respondent No. 1(4-d) on record.

6. Necessary amendment be carried out within period of two weeks from today.

(Y. G. KHOBRADE, J.)

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