



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

924 CIVIL APPLICATION NO. 8417 OF 2023
IN FAST/23472/2015

ASHOK MUKUNDRAO SHINDE (DIED) THR LRS. GAYATRI ASHOKRAO
SHINDE

VERSUS

THE EXE. ENGINEER MINOR IRRIGATION DIV, LATUR AND ANR

Mr. P. V. Gole h/for Mr. V. D. Gunale, Advocate for Applicant

Mr. S. V. Hange, AGP for the Respondents, State.

Mr. D. B. Pawar, Advocate for Respondent No.1.

CORAM : Y. G. KHOBRAGADE, J.

DATE : 7th May, 2024

ORDER:

1. Heard learned counsel for the applicant. None appear d for the non-applicant/ Acquiring Body.

2. Mr. P. V. Gole, the learned counsel holding for Mr. V. D. Gunale, the learned counsel for the applicant/claimant submits that the Acquiring Body has filed the appeal challenging the judgment and award dated 13.04.2012 in LAR No. 293 of 2012 (Old No. 917 of 2002).

3. During Pendency of the appeal, the original claimant died living behind legal heirs named in the legal heirs certificate issued by the learned Joint Civil Judge, Junior Division, Ahmedpur in Misc. Application No. 482 of 2022.

4. Needless to say that the present applicant is legal heir of original clamant who sought to be impleaded being legal heirs in the first appeal. As per provisions of Order 22 Rule 1 and 2 of the Civil Procedure Code, it is the duty of the appellant to bring the legal heirs of deceased respondent on record, if died during pendency of the appeal and cause of action survives.

5. As per the order sheet, on number of times, the learned counsel appearing for the Acquiring Body sought time to file application for bringing the legal heirs of sole respondent/claimant on record. The Original claimant died on 24.05.2022 but still no steps have been taken. Therefore, the appeal is abated as against the respondent/ claimant under order 22 Rule 4 of the Civil Procedure Code.

6. Civil Application is disposed off.

(Y. G. KHOBRADE, J.)

JPChavan