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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 11094 OF 2024

Sarojini Chandrakant Tirhekar (Deshmukh) .. Petitioner

Versus

Yamunabai Sopal Zol (Since Deceased) and Ors. .. Respondents

-
- Mr. Sandeep Salunkhe, Advocate for Petitioner.
 - Mrs. V.S. Nimbalkar, AGP for the State.
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CORAM : MILIND N. JADHAV, J.

DATE : AUGUST 06, 2024.

P.C.:

1. Heard Mr. Salunkhe, learned Advocate for Petitioner and Mrs. Nimbalkar, learned AGP for the State.

2. By virtue of the impugned order dated 06.06.2024 which is appended at Exhibit “H” - page No.61 of the Writ Petition, the Legal heirs of the Decree Holder who is the original Applicant before the Executing Court in Darkhast No. S.R./10/2018 in RCS No.365 of 1981 the Application stood rejected.

3. Once the process is set into motion for execution of the decree at the behest of the Decree Holder, if the Decree Holder expires, the said process cannot be abated and their legal heirs are required to be brought on record.

4. The Executing Court is directed by this Court to immediately bring the legal heirs of deceased Decree Holders on record and implead them as proper and necessary parties. The learned Executing Court shall allow the Applicant who is the Petitioner before me to implead them as proper and necessary party in the Execution proceedings, subject to compliance of all conditions.

5. Mr. Salunkhe would submit that pursuant to demise of the Decree Holders, an identical Application has also been made by the Judgment Debtor to bring the legal heirs of the Decree Holders on record before the Tahasildar and no orders have been passed. However, according to the Tahasildar, he does not have the powers to implead the legal heirs in place of the deceased Decree Holders.

6. Be that as it may, the legal heirs of deceased Decree Holder in the Execution proceedings are permitted to be brought on record.

7. After the amendment is allowed by the Executing Court, the Executing Court shall accordingly inform the concerned Collector / Tahasildar about the same so that further execution of the decree and steps for execution can be taken accordingly by him.

8. In view of the above, the impugned order dated 06.06.2024 is quashed and set aside.

9. Writ Petition is allowed and disposed.

[MILIND N. JADHAV, J.]

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