

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.1923 OF 2024

IN

SECOND APPEAL NO.17 OF 2011

WITH

INTERIM APPLICATION NO.1925 OF 2024

IN

SECOND APPEAL NO.18 OF 2011

Smt. Prema Jethalal Thakkar And Anr. ...Applicants

Versus

Francis Joseph George (Since Decd. Thr.
Lrs.) ...Respondents

Ms. Druti Datar i/b Mr. R. S. Datar for Applicants.

Mr. Piyush Todkar i/b Ms. Neeta Karnik for Respondent No.1.

CORAM : SHARMILA U. DESHMUKH, J.

DATE : 1st MARCH, 2024

P. C. :

1. Office noting indicates that the service upon proposed respondents is awaited.

2. Ms. Datar, learned counsel appearing for the applicants submit that by way of private notice the proposed respondents have been served and the affidavit of service is already placed on record. Today, none appears for the proposed respondents.

3. Interim Applications have been preferred for bringing on record the legal heirs of the sole respondent and for condonation of delay of 1 year and 231 days caused in filing the Application and for setting aside abatement.

4. Ms. Datar, learned counsel appearing for the applicants submits that Second Appeal came to be admitted by order dated 4th April 2013. She would further submit that when the matter was taken up for final hearing on 8th January 2024, the advocate appearing on behalf of respondents informed the Court that the original respondent had expired. She submits that despite communication, copy of the death certificate is still not made available by the respondent's Advocate. She submits that as the appellant was not informed about death of the sole respondent no steps could be taken within prescribed period of limitation and as such there is delay.

5. Mr. Piyush Todkar, learned counsel for original respondents would submit that the proposed heirs have not contacted the advocate and neither death certificate is made available to him.

6. For the reasons stated, delay of 1 year and 231 days caused in

preferring Interim Applications is condoned and abatement is set aside.

7. Interim Applications stand allowed. Amendment to be carried out within a period of 2 weeks from today.

(SHARMILA U. DESHMUKH, J.)