

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

**INTERIM APPLICATION NO. 415 OF 2024
IN
FIRST APPEAL NO. 1611 OF 2019**

Deepak Kashinath Patil and Ors. ... Applicants

In the matter between

Union of India through Central ... Appellant
Railway Executive Engineer
(Development)

V/s.

Kashinath Hasha Patil (since ... Respondents
deceased) through LRs.

Ms. Sapana Rachure with Ms. Neha Achliya with Mr. Ketan Mutha, for
the applicants.

Mr. T.J. Pandian with T.C. Subramanian with Gautam Modanwal, for
the Respondents.

CORAM : KISHORE C. SANT, J.

DATE : 18TH JANUARY 2024.

PC:

1. This Court by order dated 10th July 2019 had granted stay to the execution of the proceedings before the Executing Court. Thereafter, an application was moved by the original claimant for withdrawal of the amount of compensation deposited by the appellants in the trial Court. The said amount was allowed to be withdrawn by

the original claimants on a condition of giving bank guarantee. The bank guarantee was accordingly given. However, thereafter unfortunately, the respondent no. 1(a) died on 9th June 2021. In view of that the claimants had filed an application and the learned trial Court thereafter passed an order. In the said order the trial Court did not deal with the application for deleting the name of respondent as there is stay granted by this Court.

2. It is clarified that this Court had stayed only the execution proceedings. Taking heirs of the deceased party could have been allowed, such stay order need not come in the way of passing the order by the trial Court. Trial Court can certainly pass orders which are necessary and do not cause prejudice to any of the parties.

3. In view of the same the trial Court is directed to deal with the application for deleting the name of the respondent no. 1(a) in the present appeal.

4. With these the interim application stands allowed and is disposed off accordingly.

(KISHORE C. SANT, J)