

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.347 OF 2016
WITH
CIVIL APPLICATION NO.874 OF 2018
WITH
CIVIL APPLICATION NO.658 OF 2016

Dattu Murlidhar Ghumare and Ors.

...Appellants

Versus

Rajaram Dnyandeo Ghumare and Ors.

...Respondents

Mr. Manoj Patil for the Appellants-Applicants.

Mr. Rameshwar M. Gite for Respondent Nos. 2 to 7.

Mr. A. R. Patil, Addl. G. P. for Respondent Nos.8 to 9.

Mr. Suraj Shejwal i/b Mr. Pradeep S. Gole for Respondent Nos.1 A to 1 E.

CORAM : SHARMILA U. DESHMUKH, J.

DATE : 14th FEBRUARY, 2024

P. C. :

CIVIL APPLICATION NO.874 OF 2018

1. Civil application has been preferred seeking recall of the order dated 15th March 2018 passed by the Registrar Judicial II by which conditional order was passed granting time of 4 weeks to the appellant to take steps against deceased respondent No.1 failing which the Second Appeal to stand dismissed and for permission to implead respondent Nos.1a to 1c in the present Second Appeal as party respondents and to carry out amendment accordingly.

2. Mr. Patil, learned counsel appearing for the applicant submits that during pendency of proceedings before District Court respondent No.1 had expired and his legal heirs i.e. Respondent Nos.1a to 1c were brought on record, however during the filing of the present Second Appeal the cause title came to be incorrectly typed as per the cause title of the Suit and as such respondent 1a to 1c are not impleaded in the present Second Appeal though respondent Nos.1a to 1c were already parties before the 1st Appellate Court. There is no question of proceedings having abated and it is a mere case of typographical error.

3. Learned counsel for respondents do not dispute this position.

4. In light of above, order dated 15th March 2018 is recalled. Applicant is permitted to implead the respondent Nos.1a to 1c in the cause title of the Second Appeal. Amendment to be carried out within a period of 2 weeks from today.

4. Civil Application stands allowed.

CIVIL APPLICATION NO.658 OF 2016

5. Applicant is permitted to amend the cause title to implead

Respondent Nos.1a to 1c. Amendment to be carried out within a period of two weeks from today.

SECOND APPEAL NO.347 OF 2016

6. Registry is directed not to display the name of Advocate Pradeep Gole for respondent Nos.1a to 1e, as he does not appear for the said respondents.

7. Stand over to **28th February 2024** under the caption “For Admission”.

(SHARMILA U. DESHMUKH, J.)