

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9596 OF 2024

Priyadarshini Nagari Sahakari Patsanstha
Maryadit and anr. .. Petitioners

Versus

Rangubai Govind Pawar (since deceased)
through legal heirs
1.1 Shri Sampatrao Govind Pawar and ors. .. Respondents

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● Mr. Anant Vadgaonkar, for Petitioners.

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CORAM : MILIND N. JADHAV, J.

DATE : JULY 16, 2024

P. C.:

1. I have perused the impugned order dated 03/05/2024. In paragraphs 4 and 6, learned Trial Court has returned a finding that the Respondent nos. 1 and 3 had died/expired long before the inception of the main proceedings. This finding, *prima facie*, is incorrect on the face of the record. When the main proceedings are filed, both the Respondent nos. 1 and 3 were alive. The main proceedings came to be dismissed for non-prosecution subsequently and it is only when the restoration of the main proceedings for execution was sought for by the decree holder, at that time it was seen that the Respondent nos. 1 and 3 had expired in the interregnum. The dates of the demise of the Respondent nos. 1 and 3 are noted in paragraph no. 4 and from the said dates, it is evident and clear that their demise was during the

pendency of the proceedings itself. It is seen that the main proceedings for execution were filed in the year 2007 before the Executing Court. In that view of the matter, the order dated 03/05/2024 passed below Exhibit 13 in the Application seeking condonation of delay caused in filing the Application for bringing legal representatives of the deceased on record is unsustainable and is therefore quashed and set aside. Resultantly, the Application filed below Exhibit 13 stands allowed.

2. The legal heirs of the deceased Respondent nos. 1 and 3 are permitted to be brought on record in the proceedings before the Executing Court by the decree holder. Thereafter, the proceedings before the Executing Court shall proceed strictly in accordance with law.

3. With the above directions, the Writ Petition stands allowed and disposed of