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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL (ST) NO. 22694 OF 2018
WITH
CIVIL APPLICATION NO. 967 OF 2019
WITH
INTERIM APPLICATION NO. 6761 OF 2024
WITH
INTERIM APPLICATION NO. 6758 OF 2024
WITH
INTERIM APPLICATION NO. 6762 OF 2024
WITH
CIVIL APPLICATION NO. 969 OF 2019

Maruti Bhimanna Shinde Vadd and Others ... Appellants/Applicants
Vs.

Hanmant Karsunda Shinde Vadd and Others ... Respondents

Mr. Abhijit Adagule for the Appellants.

Mr. Sandeep Koregave a/w. Ms. Pallavi A. Karanjkar for Respondent
Nos. 1 to 3.

CORAM : GAURI GODSE, J.

DATE : 19th NOVEMBER 2024

ORDER :

Civil Application No. 967 of 2019

1. This application is for condonation of delay of 275 days in filing the Second Appeal. Learned counsel for the applicant submits that the reasons for delay are explained in paragraph 6 of the application.

2. Learned counsel for the applicant submits that the Second Appeal raises substantial questions of law on the interpretation of the Kabulayatnama which was issued exclusively in the name of Bhimanna i.e predecessor in title of the applicant. He submits that the questions of law that arises in the Second Appeal are framed in ground nos. B, C and D which are reproduced below :

(B) Whether both the courts failed to consider that, the Kabulayatnama was exclusively granted to the predecessor of the Appellants in individual capacity and it was not a re-grant? Therefore there is no question of said Kabulayatnama being granted to the joint family ?

(C) Whether both the courts failed to consider that, the suit property was exclusively allotted to the predecessor of the appellants and the Kabulayatnama also records the same and further it is also mentioned in the Kabulayatnama that, the suit property is not liable to be partitioned ?

(D) Whether both the courts erred in coming to the conclusion that, the suit property was allotted to the predecessor of the appellants as Karta of the joint family and not in an individual capacity ? It is pertinent to note that, both the courts have failed to appreciate that, the suit property

was exclusively allotted to the predecessor of the Appellants and not as a Karta of the joint family ?

3. Learned counsel for the applicant submits that the appellant appellant no. 1, respondent no. 4 and respondent no.6 have expired. He submits that separate applications are filed for bringing on record names and legal representatives of the deceased parties.
4. Learned counsel for respondent nos. 1 and 3 waives notice.
5. Issue notice to remaining respondents, except respondent nos. 4 and 6 returnable on 11th February 2025.
6. In addition to court notice, learned Advocate for the applicant to serve the said respondents by private service and file service affidavit before the next date.

Interim Application No. 6758 of 2024

6. Issue notice to respondent nos. 4(a) to 4(d) returnable on 11th February 2025.
7. Learned Advocate for respondent nos. 1 and 3 waives notice.
8. In addition to court notice, learned Advocate for the applicant to serve the respondent nos. 4(a) to 4(d) by private service and file service affidavit before the next date.

Interim Application No. 6761 of 2024

6. Issue notice to respondent nos. 6(a) to 6(c) returnable on 11th February 2025.
9. Learned Advocate for respondent nos. 1 and 3 waives notice.
10. In addition to court notice, learned Advocate for the applicant to serve the respondent nos. 6(a) to 6(c) by private service and file service affidavit before the next date.

[GAURI GODSE, J.]