

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.11662 OF 2024
IN
WRIT PETITION NO.7477 OF 2020

Jagannath Sopan Zagade (Mali)
Since deceased Thr. LRs. and Others. ...Applicants.

In the matter between

Jagannath Sopan Zagade (Mali) and Others. ...Petitioners.

Versus

Vithal Rama Mali
Since deceased Thr. LRs. and Others. ...Respondents.

Mr. Nikhil Wadikar and Mr. K. Patil for the Petitioner.
Mr. P.B. Shah, for Respondent Nos. 1 to 3.

Coram : Sharmila U. Deshmukh, J.

Date : November 14, 2024.

P. C. :

1. Interim application has been preferred for bringing on record the legal heirs of deceased Petitioner no.1 and deceased Respondent No.1 and to delete the names of the Respondent Nos.3b, 5 and 6, as the legal heirs are already on record.
2. Learned counsel appearing for the Petitioner / Applicant submits that the Petition was admitted in the year 2000 and thereafter there was no communication with his client. He submits that only when the

matter came to be listed for final hearing that the legal heirs approached the advocate on record and informed him about the death of the Petitioner, pursuant to which the present application is taken out.

3. Learned counsel appearing for the Respondents opposes the application, firstly on the ground that composite application has been filed for bringing on record the legal heirs of deceased Petitioner and deceased Respondents. He would also point out that there is colossal delay as far as the Petitioner No. 1 and the Respondents is concerned which has not been properly explained.

4. Upon a query by this Court as to the date on which the death of the Respondents was informed to the counsel for Petitioner, Mr. Shah, would fairly concede that no such information was given.

5. In the light of the same, it cannot be said that the delay in bringing on record the legal heirs of deceased Respondents cannot be condoned. The primary responsibility is upon learned counsel for the Respondents to inform the counsel for the Petitioner about the death of parties and particularly when the petition has already been admitted and was not listed on board for considerable period of time.

6. As far as the Petitioner No. 1 is concerned, there is sufficient explanation for the delay. It is not uncommon that after the petition is admitted, there is communication gap between the advocate on record

and the litigant and it is only when the petition comes up for final hearing that the communication is established. As such, the delay is justified.

7. As far as the objection that composite application has been filed, the same is a technical objection. Notably, the Registry has not raised any objection as regards the same. Further, no prejudice is shown to be caused to the Respondent by reason of filing of composite application. I am, therefore, not inclined to entertain the said objection and it is rejected.

8. Application stands allowed. Amendment to be carried out within two weeks from today.

9. List the petition on final hearing board on **28th November 2024**.

[Sharmila U. Deshmukh, J.]