



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CIVIL APPLICATION (CAS) NO.699 OF 2024 IN
SECOND APPEAL ST. NO.2415 OF 2024

Smt. Kamlabai W/o Vamanrao Naik .Vs. Vishal S/o Vinayak Dhamgaye (Dead) through
 LR.

Office Notes, Office Memoranda of
 Coram, appearances, Court's Orders
 or directions and Registrar's order

Court's or Judge's Order

Shri P.L Sagdeo, Advocate for appellant/applicant.

Shri R.T. Anthony, Advocate for respondent Nos.1 (c) and 1 (d).

Shri P.C. Malviya, Adv. h/f Shri Najeeb Shaikh, Adv. for respondent No.4.

CORAM : SANJAY A. DESHMUKH, J.

DATED : 23/08/2024

1. This is an application for addition of party as respondent No.5 who was party in the first appeal.
2. Perused the application.
3. Heard learned advocates for both side.
4. On behalf of appellant it is contended that because of mistake of the advocate, the appellant Savita Wd/o Sudhir Dhamgaye was not made party to this appeal. In first appeal she was party. Considering Rule 20 of Order 41 of the Code of Civil Procedure (CPC), the learned advocate for the appellant submitted to allow the application in the interest of justice.
5. The learned advocate for the respondents strongly objected the application and submitted that, negligence of an advocate for the appellant, is not good ground for allowing the application. He pointed out that appeal is not within limitation against proposed respondent No.5. He pointed out that as per Rule 20 of Order 21 of the

CPC the application deserves to be rejected. He therefore submitted to reject the application.

6. Considering peculiar set of the facts, the respondent No.5 is necessary party. The application deserves to be allowed in view of the Rule 20 of Order 41 of the CPC in the interest of justice. The application is **allowed**.

7. Amendment be carried out forthwith. If the amendment is carried out, issue notice to the respondent No.5, returnable on **12.09.2024**.

CIVIL APPLICATION (CAS) NO.99 OF 2024

1. The learned advocate for the appellant pointed out an order passed by this Court dated 26.07.2024 by which respondent Nos.(1b) and (1e-1) were permitted to be served by paper publication in daily newspaper. The learned advocate for the appellant further submitted that, respondent Nos.2 and 5 shall also be permitted to be served by paper publication accordingly.

2. The learned advocate for the respondent seeks permission to serve the notice for the respondent Nos.2 and 5 by paper publication in daily newspaper "Navbharat" or "Lokmat".

3. Leave is granted.

4. Stand over to **12.09.2024**.

(SANJAY A. DESHMUKH, J.)