



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.

CIVIL APPLICATION (CAS) NO. 570 OF 2024
IN

SECOND APPEAL NO. 478 OF 2023

Ramlal S/o. Karamchand Soni (dead) through LR's and others
Vs.

Ghanshyam Banurao Farkade and others

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

Court's or Judge's Order

Shri H. I. Kothari, Advocate for appellant.

CORAM :- M. W. CHANDWANI, J.

DATED :- 11.07.2024

Heard.

2. The contention is that after passing of the judgment and award by the Appellate Court, the appellant no. 6 died and therefore, the appeal came to be filed by the legal representatives of the deceased appellant no. 6. Since, there was no contention raised in the memo of appeal stating this fact therefore, the Registry raised objection to the memo of appeal. Hence, the present application came to be filed for condoning the delay in setting aside abatement and bringing legal heirs of the deceased appellant no. 6 on record.

3. Since, the appellant died in the interregnum therefore, the appeal has been filed by the legal representatives of the deceased appellant no. 6.

Therefore, there is no question of abatement of the appeal against the original deceased appellant no. 6. Since, right to sue survives in favour of the legal representatives of the deceased appellant no. 6 therefore, the legal representatives of the deceased appellant no. 6 are permitted to prosecute the appeal in their names.

4. In the above said terms, the application is disposed of. The appellants shall correct the memo of appeal by mentioning about the death of the original appellant no. 6 and filing of the appeal by the appellants in the capacity of the legal representatives of the original appellant no. 6.

5. The amendment be carried out within one week.

6. At the request of the learned counsel for the appellants, permission is granted to file copy of the depositions.

7. Stand over two weeks.

(M. W. CHANDWANI, J.)