



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

917 WRIT PETITION NO. 1789 OF 2022

MOHD. AMINUDDIN MOHD. GULAM RASOOL SIDDIQUI AND OTHERS
VERSUS
MOHAMAD PASHA MOHAMAD BASIRUDDIN SINCE DECEASED THROUGH
LEGAL REPRESENTATIVES AND OTHERS

Mr. P. S. Shendurnikar, Advocate for the Petitioners
Ms. A. N. Ansari, Advocate for Respondent Nos.2B to 2I.
Mr. R. K. Ashtekar, Advocate for Respondent Nos.1A, 1D, 1E and 1F.

CORAM : R. M. JOSHI, J.

DATE : 16th OCTOBER, 2025

P.C. :-

1. By consent of both sides, heard finally at the stage of admission.
2. This Petition takes exception to the order passed below Exhibit 77 dated 10/03/2021 in RCA No. 30/2012 whereby, the learned Ad-hoc District Judge-1, Udgir has rejected the Application to bring LR's of deceased Appellant No.5 on record.
3. Learned Counsel for the Petitioners has drawn attention of the Court to the memo of appeal filed before the First Appellate Court so also the judgment passed by the Trial Court in Spl. C.S. No. 10/1992 to point out that Appellant Nos.4 and 6 are the sons of Appellant No.5 and on death of Appellant No.5 the appeal does not get abated as his LR's are already on record. It is his submission that in order to bring the

other children of deceased on record application in question came to be filed. It is his submission that the First Appellate Court has adopted hyper technical view and rejected the Application without considering this fact.

4. Learned Counsel for the Respondents vehemently opposed the petition. It is argued that the application was not filed in proper forms so also there was no prayer for condonation of delay.

5. There is no dispute about the fact that the Appellant Nos.4 and 6 are sons of Appellant No.5 and they were already on record. As such, there was no question of appeal getting abated against Appellant No.5 on his death. Now question arises as to whether at later point of time any application to bring other LR's of deceased Appellant No.5 could be allowed. The answer thereto must be positive for the reason that since the appeal was not abated, it was open for the appellant to bring other LR's of deceased Appellant No.5 on record.

6. The application (Exh. 77) though said to have been filed under Order 1 Rule 10 of Code of Civil Procedure, it is practically to bring LR's of deceased Appellant No.5 on record. The First Appellate Court ought to have ignored the form in which the application was filed and should have considered the substance thereof.

7. Having regard to the afore stated facts, this Court finds no reason to call upon the Petitioner to file fresh application to bring themselves on record. On the contrary it would be in the interest of the parties that application (Exhibit 77) is allowed and the LR's of deceased Appellant No.5 are permitted to be brought on record.

8. In view of the above, impugned order is set aside. Application (Exhibit 77) is allowed. The Appellants are permitted to bring other LR's of deceased Appellant No.5 than Appellant Nos.4 and 6 on record and amendment be carried out within a period of four weeks.

9. This Court is informed that though the Regular Civil Appeal is numbered as 30/2012 before the District Court, the original Appeal came to be filed before this Court in the year 1996. In view of this, Appellate Court is directed to decide the Appeal on merit expeditiously and in any case within a period of six months from today.

(R. M. JOSHI, J.)

ssp