



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

44 CIVIL APPLICATION NO. 2904 OF 2022
IN SA/339/1997

Eknath S/o Gatalu Dhobi Died Through Lrs Mirabai W/o
Eknath Mahale @ Dhobi And Others

VERSUS

Supdu S/o Gatlu Dhobi Died Through Lrs Smt. Sayjabai W/o
Supdu Mahale Died And Others

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Advocate for Applicant : Mr. K.M. Nagarkar h/f S.B.Talekar.

Advocate for Respondents : Mr.L.V. Sangeet For R/sole In Sa

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WITH

CIVIL APPLICATION NO. 2906 OF 2022 IN SA/339/1997

WITH

SECOND APPEAL NO. 339 OF 1997

CORAM : S. G. CHAPALGAONKAR, J.

Dated : April 22, 2025

ORDER :-

Civil application No.2906/2022 :-

1. Heard learned advocates appearing for the respective parties.
2. The applicant seeks permission to bring on record L.Rs. of respondent no.1/4 who died on 20.10.2021.
3. Mr. Nagarkar, learned advocate appearing for the applicant points out that sole appellant died in the year 2020. His L.Rs. are brought on record in the year 2021 after getting L.Rs. of appellant on record, further steps were taken to bring on record L.Rs. of the deceased respondent.

4. In the present case, respondent nos.1/4 died on 22.5.2020. As such, steps could not be taken within time.

5. Mr. Sangeet, learned advocate for respondent vehemently opposes the application. Delay in filing the present application is not explained and there is no explanation to condone such delay. However, considering the submissions advanced and reasons as stated, it is apparent that second appeal is admitted in the year 1997 after framing of substantial question of law. Sole appellant died so unless his L.Rs. are brought on record, further steps to bring L.Rs. of respondent could not be taken. Explanation appears to be appropriate and proper. Even, otherwise second appeal would not abate upon death of respondent no.1/4 as other L.Rs. of original defendant are already on record.

6. In that view of the matter, there is no impediment in allowing this application. Hence, application is allowed in terms of prayer clause 'B and C'. Amendment to be carried out within a period of two weeks from today. CA stands disposed of.

CA 2904/2022 in SA 339/1997 :-

7. The applicants seek to bring on record L.Rs. of respondent no.1/1 Sayajabai w/o Supdu Mahale, who died on 27.12.2011.

8. Mr. Nagarkar, learned advocate submits that since sole appellant had expired on 22.5.2020, and his L.Rs. are brought on record, subsequent thereto steps could be taken to bring on record L.Rs. of respondent no.1/1.

9. Considering the controversy and nature of dispute in second appeal and fact that sole appellant himself died in 2020, sufficient cause is made out to condone the delay and grant application, as prayed.

10. In that view of the matter, application is allowed in terms of prayer clause B and C and disposed of. Amendment to be carried out within a period of two weeks.

Second Appeal :-

11. Post the second appeal under caption of 'Final Hearing' on 3.7.2025.

(S. G. CHAPALGAONKAR, J.)

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