



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 4214 OF 2022

Bhagwan Ratan Chaudhari Since Deceased Hence Thr Lrs Smt. Sarla
Bhagwan Chaudhari And Others

VERSUS

Pathan Mohammad Sabir Ismail And Another

Mr. M. S. Kulkarni, Advocate for Petitioners

Mr. N. L. Chaudhari, Advocate for Respondent No. 1

CORAM : R. M. JOSHI, J.

DATE : 25th March, 2025

PER COURT :-

1. This petitioner takes exception to the order impugned dated 21.01.2022 passed in Civil Misc. Application No. 697/2021 essentially on the ground that the LR's of respondent/defendant who is dead now were not brought on record.

2. Learned counsel for the petitioners, amongst other contentions, raised objection with regard to the manner in which the order impugned came to be passed. It is his submission that the Trial Court committed error in observing that LR's of original defendant in execution proceeding are not necessary to be brought on record.

3. Learned counsel for respondents, on merit supports the impugned

order.

4. Perusal of the impugned order indicates that the Trial Court was of the view that it is not necessary to bring LR's of deceased-defendant on record before passing any order. This view is erroneous. It was obligatory on the part of the Court to bring LR's of deceased-defendant on record. Hence, only on this ground and without going into the merits of the order passed by the Trial Court, impugned order is set aside.

5. Since now original plaintiff has knowledge of the LR's of deceased-defendant, application be moved before the Trial Court for bringing them on record within a period of two weeks. If application is so made, issue of limitation shall not be raised or entertained.

6. In view of the above, Trial Court is expected to pass appropriate order on the said application so also on the merit of the Civil Misc. Application No. 697/2021 expeditiously.

(R. M. JOSHI, J.)

bsj