



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

912 WRIT PETITION NO. 10059 OF 2024

ARUN GOPINATH KULKARNI AND ANOTHER
VERSUS
SATISH SHRIRAM KULKARNI DIED AND ANOTHER

Mr. D. R. Markad, Advocate for the petitioners
Mr. A. C. Sisodiya, Advocate for respondent No.2.

CORAM : R. M. JOSHI, J.
DATE : 27th MARCH, 2025

PER COURT :-

1. This petition takes exception to order dated 15th July, 2024 passed below Exhibit 96 in Special Civil Suit No. 225 of 2019 passed by C.J.S.D., Ahmednagar, whereby an application filed to join brother and sister of defendant No.1 as a party defendant. This application came to be rejected by the learned Trial Court with observations that no cause of action survives against the legal representatives of deceased defendant No.1.

2. Learned counsel for petitioner submits that the petitioner has filed suit though for recovery of the money, he has also sought relief in respect of the attachment of the property of the defendant. It is his contention that during the pendency of the suit, said property is sold to defendant No.2 and therefore purchaser has already been joined as

defendant No.2 to the suit. It is his further submission that since the proposed defendants were party to the said sale deed, they are necessary party to the present suit.

3. A specific query was made to the learned counsel for the petitioner to satisfy this Court about the subsistence of cause of action after death of defendant no.1. He was unable to point out that cause of action having still survived on his death. In so far as his contention about proposed defendants being the signatories to the sale deed is concerned, the sale deed placed on record indicate that consideration was received by defendant No.1 and not by the proposed defendants. As such for want of survival of the cause of action, question of bringing on record the LR's of deceased defendant No.1 does not arise.

4. The Trial Court has rightly taken into consideration the afore stated facts and rejected the application. Hence, no merit in the petition. Petition stands dismissed.

(R. M. JOSHI, J.)

ssp