



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

CIVIL APPLICATION NO. 9088 OF 2024
IN FA/1539/2007
AND
CIVIL APPLICATION NO. 9089 OF 2024
IN FA/745/2014

GOVIND SHRIRAM MANTRI
VERSUS
SHANTABAI DEVIDAS JADHAV AND ORS

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Advocate for Applicant in CA-9088/2024 : Mr. Jethliya Dhiraj R.
Advocate for Applicant in CA-9089/2024 : Mr. Jethliya Dhiraj R.
Advocate for Respondent Nos. 1 and 2 : Mr. Sudhir K. Chavan

...

AND
CIVIL APPLICATION NO. 13426 OF 2024
IN FA/745/2014

SHANTABAI DEVIDAS JADHAV AND ORS
VERSUS
GOVIND SHRIRAM MANTRI

...

Advocate for Applicants : Mr. Sudhir K. Chavan
Advocate for Respondent : Mr. Jethliya Dhiraj R.

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CORAM : SHAILESH P. BRAHME, J.

DATE : 29th APRIL 2025

PER COURT :

. I have perused my previous common order dated 21.04.2025. That time, learned Counsel Ms. Khushi Verma represented that she had instructions to appear for Dattaprasad Shriram Mantri. She was waiting for Vakalatnama and the instructions. Today, she informs that she does not have instructions

and she does not receive any Vakalatnama. She also prays for discharging her. As she has not filed Vakalatnama to represent the party concerned, there is no question of discharging her. However the conduct of party proposed to be substituted i.e. Dattaprasad Shriram Mantri is deprecatory. He has not only misled learned Counsel Ms. Khushi Verma, but this Court also.

2. Civil Application Nos.9088/2024 and 9089/2024 are for substitution of the party who is original employer – Govind Shriram Mantri in the wake of compromise decree passed in R.C.S. No.370/2013. Mr. Jethliya adverts my attention to the provision of Order 22 Rule 10 and relies on the judgment of Calcutta High Court in the matter of **Shaw Wallace and Company Limited Vs. Kishore Rajaram Chhabria**, 2012 SCC OnLine Cal 5905, as well as judgment of Supreme Court in the matter of **Chandra Bai (Died) Through Legal Representatives Vs. Khandalwal Vipra Vidyalaya Samiti and Others**, (2016) 12 SCC 534. Relying on Clause Nos. 4 and 6 of the terms of compromise which were part of compromise decree, it is contended that his client – Govind Shriram Mantri is no longer liable for any compensation or dues towards the workman. The liability would be that of Dattaprasad Shriram Mantri and he be substituted.

3. Mr. Sudhir Chavan repels the submissions by referring to Civil Application No.4422/2025 and its annexures. According to him, though various orders were passed by this Court, Respondent-Employer did not bring to the notice of the Court the compromise

decree. It is contended that claim of the workman was filed in 2005 and decided on 12.09.2007, whereas suit for partition bearing RCS No.370/2013 was filed on 19.12.2013. Thereafter compromise decree was drawn on 09.04.2018. He would insist that liability is that of original employer and the compromise decree does not specifically refer to both the appeals and liability imposed by the learned Commissioner vide judgment and order dated 12.09.2007 passed in W.M.C. No.9/2005.

4. The basis for substitution and claim for devolution of interest is compromise decree passed on 09.04.2018 in RCS No.370/2013. The said suit was filed by the original employer – Govind against his family members including Dattaprasad Shriram Mantri on 19.12.2013. The compromise decree does not refer to impugned judgment and order dated 12.09.2007 passed in W.M.C. No.9/2005. The terms are silent regarding liability of payment of compensation which is subjudice in the High Court. Just on the basis of compromise decree, I am not inclined to accept the submissions of Mr. Jethliya that interest has been devolved and liability of original employer ceased to exist or transmitted to Dattaprasad Shriram Mantri.

5. As per judgments referred by Mr. Jethliya, the summary inquiry needs to be conducted regarding devolution of interest as contemplated by Order 22 Rule 10 of CPC. It would be open for the parties to address at length regarding their liability, devolution of

interest or the entitlement of the Claimants at the time of final hearing. At this juncture, I am not impressed by the submissions of Mr. Jethliya to allow the prayers for substitution.

6. Civil Application No.13426/2024 is filed by the Claimants for addition of party. The Applicants therein are praying to implead Dattaprasad Shriram Mantri as a party Respondent in the wake of R.C.S. No.370/2013. Their apprehension is just and proper that on the basis of compromise decree, original employer – Govind Shriram Mantri is likely to take defence that his liability does not subsist and it would be Dattaprasad Shriram Mantri who could be held to be liable.

7. Considering overall circumstances, I am of the view that instead of substituting Govind Shriram Mantri by Dattaprasad Shriram Mantri, the interest of justice would be subserved, if both of them are added parties to both the appeals. I have already recorded that the entitlement of the parties and their liabilities would be adjudicated at the time of final hearing. I therefore, pass following order :

ORDER

- (i) Civil Application No.13426/2024 is allowed.
- (ii) Civil Application No.9088/2024 and 9089/2024 are disposed of by directing Appellant – Govind Shriram Mantri in First

Appeal No.1539/2007 to implead Dattaprasad Shriram Mantri as party Respondent in the appeal.

(iii) All above amendments be carried out within four weeks.

**SHAILESH P BRAHME
JUDGE**

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