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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION(ST) NO. 6117 OF 2022
IN**

SECOND APPEAL NO. 310 OF 2016

Chandrakant S. Warkari (since deceased ... Applicants/Appellants
through Lrs) Smt. Bharti Chandrakant Warkari
and Ors

vs.

Nandkumar Ramchandra Warkari(since Decd. ... Respondents
Through Lrs) Sou. Sanjivani Mahaling
Mahajan and Ors

Mr. Ajay Raje Nimbalkar i/b. Mr. Bhooshan Mandlik for
Applicants/Appellants.

Ms. Srushti Chalke i/b. Mr. Drupad Patil for Respondent Nos. 1 to 5.

CORAM : GAURI GODSE, J.

DATED : 4th APRIL 2025

ORDER:

INTERIM APPLICATION(ST) NO. 6117 OF 2022.

1. This application is for bringing on record the names of heirs and legal representatives of the deceased sole appellant. Learned counsel for the applicant submits that in view of the exclusion of period during Covid-19 pandemic, the present application is within time.

2. Learned counsel for the applicants further submit that respondent nos. 1, 4 and 6 have expired and their separate

applications for bringing on record the respective heirs and legal representatives are still pending. He however, submits that inadvertently, the pendency of those applications is not mentioned in the present application. He submits that the names of heirs and legal representatives of those deceased respondents are mentioned in the present application.

3. Since, the application is within time, the application can be allowed. Learned advocate for the applicants is permitted to amend the application to include the statement regarding pendency of the three applications. Amendment to be carried out within three weeks.

4. The application is allowed in terms of prayer clause(a).

INTERIM APPLICATION NO. 1759 OF 2021

5. Not on board. Taken on Board.

6. This application is for bringing on record the names of heirs and legal representatives of deceased respondent no.1. The heirs and legal representatives are served and are represented through advocate.

7. In the facts and circumstances of the case, delay is condoned and the application is allowed in terms of prayer clauses (a) and (b).

8. Amendment to be carried out within three weeks.

INTERIM APPLICATION NO. 1761 OF 2021

9. Not on board. Taken on Board.

10. This application is for bringing on record the names of heirs and legal representatives of deceased respondent no.4. The heirs and legal representatives are served and are represented through advocate.

11. In the facts and circumstances of the case, delay is condoned and the application is allowed in terms of prayer clauses (a) and (b). Amendment to be carried out within three weeks.

INTERIM APPLICATION NO. 1760 OF 2021

12. Not on board. Taken on Board.

13. Issue notice to heirs and legal representatives of respondent no. 6 as mentioned in paragraph no. 2 of the application.

14. Notice is made returnable on 30th July 2025.

15. In addition to the court notice, learned advocate for the appellants to serve the remaining respondents, by private notice and file affidavit of service before the next date.

SECOND APPEAL NO. 310 OF 2016

16. Heard the learned counsel for the parties. The second appeal

is admitted on the following substantial question of law:

I) Whether in view of the legal principles settled in the decision of this court in the case of *Dnyanu Dadu Patil Vs. Shripati Dadu Patil, deceased by heirs Smt. Sakhubai w/o/ Shripati Patil and Others'*, the plaintiff's suit for partition would be maintainable on the ground that the plaintiff learnt about suit property being joint family property after the earlier Regular Civil Suit No. 48 of 1985 for partition and separate possession was decided?

17. Learned advocate for respondent nos. 1 to 5, waives notice.

18. In addition to the court notice, learned advocate for the appellants to serve the remaining respondents, by private notice and file affidavit of service.

19. Call for records and proceedings.

20. Printing is dispensed with.

21. Learned advocate for the appellants shall file private paper-book within a period of one year from today.

22. The issue of abatement if any as against deceased respondent no.6 is kept open.

(GAURI GODSE, J.)