

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 1680 OF 2016

IN

SECOND APPEAL NO. 196 OF 2016

Dadaso Mahadev Kochage ... Appellant/Applicant

V/s.

Supriya Ananda Chougule and Ors. ... Respondents

-----

Mr. Ashutosh Gavnekar i/by Mc. C.G. Gavnekar, for the appellant.

Mr. Prathamesh Hande i/by Prajakt Arjunwadkar, for the respondent nos. 1 to 5.

-----

CORAM : N.J. JAMADAR, J.

DATE : 13<sup>th</sup> JUNE 2025.

PC:

1. Heard the learned counsel for the applicant.
2. This is an application to bring the legal representatives of respondent no. 7, who passed away during the pendency of the First appeal before the District Judge.
3. In the application it is averred that the appellant was unaware of the death of respondent no. 7 against whom the First Appeal proceeded ex-parte. The said respondent no. 7 had also not participated in the proceeding before the Trial Court in RCS No. 664 of 2007.

4. By an order dated 27<sup>th</sup> February 2021, notices were issued to the respondent no. 7a to 7d. Affidavit of service is filed on behalf of the applicant to the effect that notices have been duly served on the respondent nos. 7a to 7d by RPAD. Copies of postal acknowledgments have been annexed to the affidavit of service.

5. None appears for the respondent nos. 7a to 7d.

6. Having regard to the fact that the respondent no. 7 had not participated in the suit before the Trial Court and the First Appellate Court proceeded ex-parte against the respondent no. 7 and for the reasons assigned in Para Nos. 11 to 17 of the application, I am inclined to allow the application to advance the cause of substantive justice.

7. Hence, the following order:

#### **ORDER**

i) The application stands allowed in terms of prayer clause (a) and (b).

ii) Necessary amendment to the appeal memo and the application be carried out so as to bring the respondent nos. 7a to 7d on record.

8. Civil Application stands disposed.

#### **SECOND APPEAL NO. 196 OF 2016**

1. Issue notice to the respondent nos. 7a to 7d, returnable on 25<sup>th</sup> July 2025. In addition to notice through Court, the applicant is at liberty to serve the respondent nos. 7a to 7d by private

service and file an affidavit of service.

(N.J. JAMADAR, J)