



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.19145 OF 2024**

Meghraj Dunda Tupange ... Petitioner
versus
Sandeep Bhaskar Mhatre and Ors. ... Respondents

Mr. Rakesh Misar with Ms. Rupali Jadhav, Ms. Vaishnavi Tiwari i/by RVM Legal, for Petitioner.

CORAM: N.J.JAMADAR, J.

DATE : 12 MARCH 2025

P.C.

1. Heard the learned Counsel for the Petitioner.
2. The challenge in this Petition is to an order dated 3 September 2024 passed by the learned Civil Judge, Sr. Division, Kalyan, whereby the application preferred by the Plaintiff to implead the legal representative of the deceased Defendant No.1 came to be allowed.
3. It was the contention of the Plaintiff that the Plaintiff was not sure as to whether the person who had given intimation to the Court that the Defendant No.1 had passed away, was the legal representative of Defendant No.1. Defendant No.2 has also raised objection to the impleadment of the said person as the legal representative of Defendant No.1.
4. In that event, learned Counsel for the Petitioner - Defendant No.2 submitted that the trial Court ought to have held an inquiry as envisaged under Order XXII Rule 5 and determined the said issue.

5. The Defendant No.2 is permitted to file an application before the trial Court to hold an inquiry under Order XXII Rule 5 of CPC and determine the issue as to whether the person who is impleaded by order dated 3 September 2024 is the legal representative of Defendant No.1.
6. In the event such an application is filed, the trial Court shall decide the same after providing an opportunity of hearing to the parties to the suit as well as the person who is impleaded as legal representative of Defendant No.1, and, thereafter, passed a reasoned order.
7. The Writ Petition accordingly stands disposed.

(N.J.JAMADAR, J.)