

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 9815 OF 2025

Kanchan Deshavji Chotalia and Anr. ... Petitioners

Vs

Municipal Corporation of Greater ... Respondents
Mumbai and Ors.

Mr. Sushil Upadhyay, for the petitioners.

CORAM : N.J. JAMADAR, J.

DATE : 16th SEPTEMBER 2025

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ORAL ORDER:

1. Heard the learned counsel for the petitioners.
2. The challenge in this petition is to an order dated 28th March 2025, passed by the Civil Judge, City Civil Court, whereby an application preferred by the petitioners, who are the legal representatives of the deceased-plaintiff, seeking amendment in the consent decree passed in favour of their predecessor-in-title, came to be rejected.
3. The learned Judge, City Civil Court was of the view that, such an application for amendment in the original plaint and the consent decree was not warranted.
4. In view of the provisions contained in Section 306 of the Indian Succession Act, 1925, all demands whatsoever and all rights to

prosecute or defend any action or special proceeding existing in favour of or against a person at the time of his death survive to and against his executors or administrators, except causes of action for defamation, assault or personal injuries.

4. The petitioners can execute the decree passed in favour of the deceased – plaintiff if they succeed in proving that they are the legal representatives of the deceased – plaintiff and the right to sue survives.

5. Thus, the petition does not deserve to be entertained. The petition stands dismissed.

(N.J. JAMADAR, J)