



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CIVIL APPLICATION (CAS) NO.264 OF 2022
WITH
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IN
SECOND APPEAL NO.137 OF 2020

Bhaskar S/o. Vyankat Waghmare and Others
--- .Vs. ---
Smt. Saundabai Krishna Shelke and Others

Office Notes, Office Memoranda of Coram, Appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. R.A. Mardikar, Advocate for Applicants.
Mr. Yash S. Bangale, Advocate for Applicant Nos.1B(1) to 1B(4).

CORAM : ROHIT W. JOSHI, J.

DATED : 03rd SEPTEMBER 2025

1. Respondent No.1-B died on 13.08.2014, while RCA No.122 of 2010 was pending. It seems that the fact of his demise was not known to the appellants in RCA No.122 of 2010. As a consequence of it, the legal representatives of deceased respondent No.1-B were not brought on record in the said appeal.

2. The dispute arises out of judgment and decree dated 08.03.2006, passed by the learned Civil Judge Junior Division, Chikhali in RCS No.172 of 2000. It was a suit for cancellation of decree passed in RCS No.169 of 1986 and for possession. The original

defendant was one Saundabai Krishna Shelke. She died while the said suit was pending and on her demise names of two individuals viz. Govinda Punjaji Ugle and Ramrao Govinda Ugle were brought on record as her legal representatives. The suit was dismissed by the learned Trial Court vide judgment and decree dated 08.03.2006. The original plaintiffs preferred an appeal being RCA No.122 of 2010.

3. As stated above, Respondent No.1-B died while the appeal was pending and his legal representatives were not brought on record. The appeal is also dismissed vide judgment and decree dated 29.11.2019.

4. Since respondent No.1-B has expired prior to filing of the present appeal, the present application cannot be treated as one under Order XXII Rule 10 read with Rule 4 of CPC. It will have to be considered as an application for addition of parties under Order I Rule 10 of CPC. Since there is no limitation prescribed for filing an application under Order I Rule 10 of CPC, the application for bringing legal representatives on record is allowed, treating it to be an application for addition of parties.

5. The suit as stated above for possession filed against one Saundabai Krishna Shelke. Deceased respondent No.1-B was brought on record as her legal representative along with one Govind Punjaji Ugle. As stated above, the fact of demise of respondent No.1-B

was not known to the appellants while RCA No.122 of 2010 was pending. The said original defendant was represented by one of her legal representatives viz. Govind Punjaji Ugle.

6. In that view of the matter, RCA No.122 of 2010 did not abate against the original defendant.

7. In view of the above, all above civil applications are disposed of.

8. Necessary amendment be carried out accordingly.

(ROHIT W. JOSHI, J.)

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