

ORDER BELOW EXH. 396

(Passed on 25th February, 2026)

1. Perused application, say and record of present proceeding. Heard all parties at length. Gone through relevant legal provisions.
2. Before parting with merits of this application, it is worth to state here that as per order passed by the Hon'ble High Court of Bombay in Writ Petition No.2454/2023, dated 13/12/2023 and many other orders passed by my ld. Predecessor on various application in this case, it is clarified that the name of plaintiff no.1B has wrongly deleted and he is the proper party to the instant suit. Considering same, it goes without saying that plaintiff no. 1B has locus standi to contest this suit as a party.
3. So for as, question of present application is concerned, it appears that firstly, the present application came to be filed to recall or review order passed by this Court below Exh.332, dated 08.07.2025 by which this Court by allowing an application for bringing L.R.s of deceased plaintiff no. 1A, 1C and plaintiff no. 4 has brought on record. According to plaintiff legal heirs, which plaintiff no. 1B has brought on record are not interested in instant proceeding and not appeared before this Court even after service of notices in present suit. In this regard, this Court is of opinion that present suit is filed for declaration and recovery of possession of the suit property, and therefore, this Court has to consider and protect interest of all concerned parties, even though they have not appeared before this Court. It is necessary to implead them as parties in order to avoid future complications and multiplicity of litigation.
4. As per impugned order, this Court has allowed to bring on record legal heirs of plaintiffs itself, which infact limiting the scope of multiple litigations. Further, it is the well settled principle of Law that

necessary parties are required to be added in any suit or proceeding in the interest of justice. According to plaintiff no. 1B, as mentioned in application **Exh. 332**, legal heirs which brought on record are not cooperating or supporting to him like coming forward and signing vakalatnama to contest the proceeding etc., they are arrayed as defendants in present suit.

5. Ld. Advocate of the plaintiff has relied upon ratio laid down in ***Jang Singh vs. Brij Lal and Others*, AIR 1966 Supreme Court 1631**. In this case it has been observed that act of the Court should do no harm to litigant. Further, it is bounden duty of the Courts to see that if a person is harmed by mistake of the Court, he should be restored to the position he would have occupied. I have given thoughtful consideration the observation made by the Hon'ble Apex Court in case (supra). In that case, provision for review was with regard to clerical error in judgment/decree. However, in the instant case review is not regarding any mistake or clerical error; but it is with regard to judicial order. Therefore, in my humble opinion, reliance made by plaintiff is not helpful to them.

6. Ld. Advocate for plaintiff no. 1B has relied upon cases viz. ***Indrachand Jain vs Motilal*, (2009)14 SCC 663**. However, with all due respect, in this case review of judgement was an issue before the Hon'ble Apex Court, while in the instant case review of an interlocutory order is in question. Therefore, it is not applicable to present case.

7. Also, present order being an interlocutory order, it need to be challenged before the appropriate Court. Further, it is worth to state here that, even though legal heirs of the plaintiffs are brought on record, they admittedly have not appeared in this proceeding even after service of notice. Accordingly, an ex-parte order is passed to

proceed against them. By allowing an application, **Exh. 332**, this Court have followed principle of natural justice of advancing fair opportunity to each parties of being heard.

8. Considering all aforesaid discussion, this Court is of opinion that there appear no reason to recall or review order passed by this Court below Exh.332 dated 08.07.2025. Therefore, in my considered opinion, present application lacks merits and deserves to be rejected. Accordingly, I proceed to pass following order:

ORDER

- (i) Application stands rejected.
- (ii) Cost in cause.

Place: Pen
Date: 25/02/2026

(Smt. A. A. Kale)
Civil Judge, Jr. Div., Pen.