

[1]

RCA No.82/2024(Exh.25)

CNRMHSN040007042024

Regular Civil Appeal No. 82/2024

**Jahangir Abbas Jamadar-Appellant
Vs**

State of Maharashtra and others -Respondents

ORDER BLEOW EXH.25

1] This is an application under Order VI Rule 17 of Code of Civil Procedure for amendment in title clause in order to bring on record the legal heirs of the deceased respondent No.9. It is contended that appellant and respondent No.4 to 8 are already on record. They are legal representatives of deceased respondent No.9. Therefore amendment is sought.

2] Perused the say given by State on the overleaf. State has opposed the application contending that appeal is filed in the year 2024 and the respondent No.9 is died in year 2021 and the appeal itself was filed against dead person. Therefore the amendment as prayed can not be allowed.

3] When called repeatedly advocates for both the parties are absent. The State has opposed the application. However I may note, though the respondent No.9 had claimed to be dead in year 2021 and the appeal is filed against dead person, it can not be ignored that as per the contention of the appellant, appellant and respondent Nos. 4 to 8 who are already party to the litigation, are the legal

representatives of deceased respondent No.9. Since those proposed legal representatives are already on record and were party to the suit, the proposed amendment is just technical amendment to rule out any lacuna in a proceedings. Therefore, if the application is allowed as prayed, no prejudice would be caused to the contesting respondents. However, considering the delay and ignorance on the part of appellant in not mentioning about the death of the respondent No.9 cost need to be saddled on the appellant. Hence the following order-

ORDER

- 1] Application is allowed as prayed subject to cost of Rs. 500/-.
- 2] Cost shall goes to State.
- 3] Accordingly appellant shall carry out the amendment within 14 days.

Date : 24-06-2025.

(Aniruddha Y. Thatte.)
District Judge-2 Islampur.