

ITEM NO.1701

COURT NO.16

SECTION IX

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G SCivil Appeal No(s). 6715/2009

ASHOK LAXMAN ATTARDE & ORS.

Appellant(s)

VERSUS

DAYABAI KAUTIK SAINDANE (DEAD) THR. LR. & ORS.

Respondent(s)

IA No. 185747/2022 - APPLICATION FOR SUBSTITUTION

IA No. 185748/2022 - CONDONATION OF DELAY IN FILING SUBSTITUTION
APPLN.

IA No. 199790/2022 - EXEMPTION FROM FILING O.T.

IA No. 185749/2022 - SETTING ASIDE AN ABATEMENT)

WITH

C.A. No. 6716/2009 (IX)

IA No. 187537/2022 - APPLICATION FOR SUBSTITUTION

IA No. 187539/2022 - CONDONATION OF DELAY IN FILING SUBSTITUTION
APPLN.

IA No. 199793/2022 - EXEMPTION FROM FILING O.T.

IA No. 187540/2022 - SETTING ASIDE AN ABATEMENT)

Date : 22-01-2024 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ARAVIND KUMAR
[IN CHAMBER]

For Appellant(s) Mr. Uday B. Dube, AOR

For Respondent(s) Mr. Venkateswara Rao Anumolu, AOR

UPON hearing the counsel the Court made the following
O R D E RCivil Appeal No.6715/2009IA No. 199790/20221. Application seeking for exemption from filing the official
translation is allowed.

IA No. 185747/2022, IA No. 185748/2022 AND IA No. 185749/2022

1. On the demise of respondent no.11 (Damu Narayan Koli), application to bring on record his legal heirs was filed and the same was allowed by order dated 22.04.2019.
2. It is submitted by the learned counsel appearing for the appellant that the service report received through e-mail from the High Court of Judicature Bench at Aurangabad states that the notice served upon the Pundalik- respondent no.11(c) has been returned with remarks *"unserved as reported to be dead"*.
3. Hence, the instant applications are filed seeking for substitution of the mother (Sobha/ respondent No.11b) and his brothers namely, Dnyaneshwar(Respondent no.11b) and Udaybhan (Respondent no.11d) as his legal heirs, for condonation of delay and for setting aside the abatement. It is also stated in the applications that the deceased respondent no.11c-Pundalik (proposed) was not married.
4. In the light of the statement made in the applications, the same stands allowed and petitioner(s) is directed to carry out the amendment of the cause-title indicating thereunder that the legal heirs of deceased respondent no.11c (Pundalik) are already on record.
5. It is made clear that in the event of there being any other legal heirs of the deceased respondent no.11c (Pundalik), orders passed in this civil appeal would not be binding on them.

6. Accordingly, application seeking for substitution is allowed subject to just exceptions after condoning the delay in filing the substitution application and setting aside abatement.

Civil Appeal No. 6716/2009

IA No. 199793/2022

1. Application seeking for exemption from filing the official translations is allowed.

IA No. 187537/2022, IA No. 187539/2022 AND IA No. 187540/2022

1. On the demise of respondent no.1 (Atmaram Bhanu Saindane), application to bring on record his legal heirs was filed and the same was allowed by order dated 22.04.2019.

2. It is submitted by the learned counsel appearing for the appellant that the service report received through e-mail from the High Court of Judicature Bench at Aurangabad states that the notice served upon the Pundalik- respondent no.1(c) came back with remarks "*unserved as reported to be dead*".

3. Hence, the instant applications are filed seeking for substitution of the mother (Sobha/ respondent No.1a) and his brothers namely, Dnyaneshwar (Respondent no.1b) and Udaybhan (Respondent no.1d) as his legal heirs, for condonation of delay and for setting aside the abatement. It is also stated in the applications that the deceased respondent no.1c-Pundalik (proposed) was not married.

4. In the light of the statement made in the applications, the same stands allowed and petitioner(s) is directed to carry out the amendment of the cause-title indicating thereunder that the legal heirs of deceased respondent no.1c (Pundalik) are already on record.

5. It is made clear that in the event of there being any other legal heirs of the deceased respondent no.1c (Pundalik), orders passed in this civil appeal would not be binding on them.

6. Accordingly, application seeking for substitution is allowed subject to just exceptions after condoning the delay in filing the substitution application and setting aside abatement.

(NISHA KHULBEY)
SENIOR PERSONAL ASSISTANT

(BEENA JOLLY)
COURT MASTER (NSH)