

IN THE COURT OF SMALL CAUSES AT MUMBAI**ORDER BELOW EXHIBIT – 83
IN
R.A.E.& R SUIT NO. 551 OF 2013****Shri. Basurao Revaji Jagtap Plaintiff****Versus****Smt. Lata Ramesh Jain & Anr. Defendants.****Coram : Shri. H. S. Puradupadhye
Judge, C. R. No. 26
Date : 09th January, 2025****ORDER :**

1. Read application, reply filed by the plaintiff at Exhibit-84.
Heard.

2. This application is filed by the defendant No.2 seeking direction to the legal heirs of original plaintiff i.e. respondent Nos.1(a) to 1(d) in Appeal to carry out necessary amendment in the Plaint for bringing on record the legal heirs of the deceased original plaintiff and original defendant No.2. As per defendant No.2, he had preferred (A-1)Appeal No.112 of 2019. The Hon'ble Appellate Court by Judgment and Order dtd. 19.10.2024 allowed the said Appeal and set aside the Judgment

and Decree passed by the Trial Court and remanded back the matter. During pendency of the Appeal, both the original plaintiff and original defendant No.2 have died and their legal heirs have been brought on record in Appeal. The said legal heirs needs to be brought on record in the present suit so that they can file Vakalatnama. Thus, prayed to allow the application.

3. The plaintiff has strongly objected contended that, the application is baseless and filed only to delay the proceeding. The plaintiff has tried to point out that the Hon'ble Appellate Bench of this Court has already expedited the present matter and therefore, the request of the defendant No. 2 that just to file his vakalatnama on behalf of the legal heirs of deceased plaintiff to whom the defendant No. 2 is already representing there is no need to give directions. Hence, prayed for rejection of the application.

4. On perusal of the record and considering the contentions of both the parties, it is not disputed that, the Hon'ble Appellate Bench of this Court has already set aside the decree passed by this Court and during pendency of the Appeal, the legal heirs of the plaintiff and defendant No. 2 are already taken on record. Needless to mention that, the Appeal is in continuation of suit and when the Hon'ble Appellate Court has already passed the necessary order for bringing on record the legal heirs of

deceased plaintiff and defendant No.2 and same has been complied with, there is no question of giving separate directions as the Appeal is nothing but continuation of the suit. It is also equally important to mention here that, the Hon'ble Appellate Court has already directed the parties to adduce evidence for which specific time constrain is given as seen from the Order dtd. 19.10.2024. Therefore, in such circumstances, the orders which are passed by the Hon'ble Appellate Bench of this Court for bringing the legal heirs of the deceased plaintiff and def. No. 2 shall continue to operate and there is no need to pass further Order by this Court to that effect. Even otherwise, the names of the legal heirs of deceased plaintiff are already appearing on the copy of the Judgment dtd. 19.10.2024. Therefore, the parties are directed to proceed further in compliance of the Order dtd. 19.10.2024 with direction to expedite. Hence, the order :-

:: O R D E R ::

1. Application (**Exhibit-83**) is rejected.
2. Parties are directed to adduce evidence on the additional issues framed by this Court below Exhibit- 27 as per Order dtd. 19.10.2024 passed by the Hon'ble Appellate Bench of this Court.

Mumbai.
Dt. 09.01.2025

(H.S. Puradupadhye)
Judge, C. R. No.26
Small Causes Court, Mumbai