

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.1526 OF 2009  
WITH  
CIVIL APPLICATION NO.1525 OF 2009  
IN  
SECOND APPEAL NO.411 OF 1990

Shri.Vijaysinh Malojirao Ghorpade  
since deceased through his heirs.

..Applicants.

Vs.

The State of Maharashtra and ors.

..Respondents

Mr.R.P.Walvekar for the Appellants.

Mr.J.P.Yagnik,AGP. for the Respondent No.1.

Mrs. M.J. Shekhar i/by M/s. J. Shekhar & Co. for  
the Respondent No.2.

CORAM : R.S. MOHITE, J.

DATE : 29<sup>th</sup> January, 2010

PC :

1           This is an application made by the  
applicants for bringing them as legal heirs of the  
original applicant on record. The original  
plaintiff Murarao Malojirao Ghorpade who had filed  
a suit for injunction against the State of

Maharashtra. Some of his relations i. e. respondent Nos. 4 and 6 were the co plaintiffs. Suit filed by Murarao was decreed. The State had preferred an appeal before the First Appellate Court and during the pendency of that appeal Murarao expired in the year 1989. The State brought his heirs on record and the appeal came to be dismissed. The State has filed the second appeal in the year 1990. Appeal was once heard and referred to a full bench of five Judges which had decided the legal issue. Second appeal is now required to be disposed off by a Single Judge . In these circumstances, present application is made by the applicants claiming to be the heirs of one Vijaysinh Malojirao Ghorpade. It is seen that Vijaysinh Ghorpade was not at all a party at any stage. It appears that Vijaysinh himself has made application for intervention and that was dismissed for default. Be that as it may, since the decree is not binding on Vinaysinh M.Ghorpade and his heirs, they are at liberty to file a separate proceeding if they so desire. In

the circumstances, application is dismissed. Second appeal may be listed for final hearing in the week commencing from 3.4.2010.

CIVIL APPLICATION NO.1525 OF 2009

1           Heard both sides.

2           In view of the observations made in the separate order passed today in Civil Application No.1525 of 2009, present civil application does not survive and the same stands disposed off.

( R.S. MOHITE, J.)