

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.595 OF 2015
IN
WRIT PETITION NO.4339 OF 1997

ISMAIL KHAN S/O HAJI ABDUL RAHEMAN
KHAN, DIED, THROUGH LR'S

APPLICANTS

VERSUS

DAGADU S/O RAMBHAJI PAGORE
AND OTHERS

RESPONDENTS

Mr.M.S.Kulkarni, Advocate for the applicants.
Mr.S.P.Shah, Advocate for respondent No.16.
Mr.R.L.Kute, Advocate for respondent Nos. 3, 4-A and 5-1.
Mr.K.M.Suryawanshi, A.G.P. for State.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 16/01/2015

PER COURT :

1. Learned Advocate for the applicants submits that this application is filed for seeking condonation of delay of 3631 days in filing the civil application so as to bring the legal heirs of respondent No.3 on record. He submits that the reasons which justify condonation of delay, are specifically set out in the civil application. He submits that the main petition is pending final hearing and as such the applicants do not gain any advantage by causing delay in bringing the legal heirs on record, as prayed for.

2. Learned Advocate for the applicants further submits that no laches can be attributed to the conduct of the applicants. They are

lay persons and were unaware as regards the pending writ petition. After they gathered information, they have moved these applications. No loss or harm would be caused to any of the respondents. If this application is rejected, doors of the Court would be closed for these applicants, whose interest in the pending writ petition is still alive. It is, therefore, prayed that though the delay appears to be inordinate, same be condoned by imposing costs. The legal heirs need to be brought on record so as to enable them to contest the matter on its merits.

3. Learned Advocates appearing on behalf of the respondents have no objection.

4. In the light of the above and for the reasons set out in the application, the delay of 3631 days is condoned subject to the applicants depositing costs of Rs.10,000/- (Rs.Ten thousand only) with the Advocates' Bar Library, High Court, Bench at Aurangabad, within a period of 3 (three) weeks from today. The civil application for bringing the legal heirs of deceased respondent No.3 is hereby allowed. Addition of the legal heirs be carried out within a period of 3 (three) weeks from today.

5. If the costs, as directed above, are not paid, this order shall stand recalled and this civil application shall stand rejected.

(RAVINDRA V. GHUGE, J.)