

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

934. CA/8583/2013 In SA/790/2012 WITH CA/13646/2012 In
SA/790/2012
PARUBAI MADHAV WAGH AND OTHERS V/S RAMDAS LIMBAJI WAGH AND OTHERS

Mr. A.V. Hon, Advocate for applicants.

Mr. S.V. Mundhe, Advocate for respondent Nos. 1, 2a to 2c & 2e,
3 to 6, 8,9,14.

CORAM : T.V. NALAWADE, J.
DATED : 1st September, 2015.

ORDER :

1. Civil Application No. 8583 of 2013 is filed for condonation of delay of 2442 days caused in filing the application to bring on record legal heirs of deceased respondent No. 2. Both the sides are heard.

2. The submissions made show that respondent No. 2 had filed suit for partition and the said suit is decided in his favour. The appeal filed by the present appellants was dismissed. Deceased respondent No. 2 was dead even during the pendency of the appeal in District Court. The consequence of the same can be considered during the hearing of the appeal itself and that point is kept open.

3. It appears that respondent Nos. 2-a to 2-e are

served. Learned counsel Shri. S.V. Mundhe is appearing for respondent Nos. 2-a to 2-c and 2-e. Nobody has turned up for respondent No. 2-d. The matter is already dismissed as against respondent No. 2-f. The learned counsel for the plaintiffs strongly opposed the application. In view of the contents of the application and submissions made this Court holds that in the interest of justice, the delay needs to be condoned.

4. In the result, the application is allowed. Delay is condoned. The present appellant is allowed to bring on record the aforesaid legal heirs of respondent No. 2 i.e. respondent Nos. 2a to 2e. The amendment is to be carried out immediately in the appeal memo.

5. Notice in the appeal to the aforesaid legal heirs i.e. respondent Nos. 2a to 2c and 2e is waived by learned counsel Shri. Mundhe. List the appeal for admission purpose on 1.10.2015. Call record and proceedings from the trial Court and copy of paper book from the appellate Court.

[T.V. NALAWADE, J.]

ssc/