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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CIVIL APPLICATION NO. 894 OF 2013
IN SA/300/2000

SIDDI NAZEER HUSAIN SIDDI ABDUAL KHADER & ORS
VERSUS
NASEEMA FATEMA @ NASEEMA SULTANA S.HAFEEZULLAKHAN

...

Advocate for Applicant : Mr.Gandhi Amol S.

Advocate for Respondents : Mr.H.V.Tungar h/f Mr.C R Deshpande for R/1.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 18th April, 2015

Per Court:

1 Leave to correct errors with regard to the description of the litigating parties in the Civil Application. Correction be carried out within TWO WEEKS from today.

2 The Appellant No.4 (Abdul Rashid Alimaiya Deshmukh) in Second Appeal No.300/2000 has passed away. This application suffers from delay of 3258 days.

3 Issue notice to the Respondent. Mr.Tungar holding for Mr.C.R.Deshpande appears and waives service for the sole Respondent.

4 By consent of the parties, heard forthwith.

5 Mr.Gandhi, learned Advocate appearing for the Applicants, submits that the death of the Appellant No.4 was considered by the other co-appellants as having no impact on the Second Appeal since there were other Appellants prosecuting the Second Appeal, which has been already admitted. After taking legal advice they realized that the legal heirs of the deceased Appellant No.4 need to be brought on record. Delay is neither intentional nor deliberate.

6 Learned Advocate appearing for the sole Respondent has strongly opposed the application and he submits that ignorance of law is no excuse. Delay of 3258 days, which is practically more than nine years, is inordinate delay and the application deserves to be dismissed. In the alternative, he submits that, if the application is allowed, heavy costs be imposed on the Applicants.

7 In the light of the above and for the reasons stated in the Civil Application, the same is allowed. Delay of 3258 days is condoned subject to the Applicants paying costs of Rs.5000/- (Rupees Five Thousand). The order of abatement, if any, stands set aside.

8 Learned Advocate appearing for the Respondent submits that the said costs be donated to the Bar Library.

9 As such, the said costs be deposited by the Applicants with the Advocate Association's Bar Library, High Court, Aurangabad within a period of FIVE WEEKS from today.

10 After depositing costs, the Applicants shall bring the legal heirs of the deceased Appellant No.4 on record in the Second Appeal within TWO WEEKS from the date of depositing costs.

11 In the event of non compliance of this order, the same shall stand recalled and then this Civil Application shall stand rejected.

(RAVINDRA V. GHUGE, J.)