

IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
BENCH AT AURANGABAD

CIVIL APPLICATION NO.15952 OF 2010  
IN  
SECOND APPEAL NO.505 OF 1998

BAISAHEB D/O MARTAND KANAKDHAR

APPLICANT

VERSUS

MOHD.MIRZA S/O KARIM BAGWAN  
AND ANOTHER

RESPONDENTS

Mr.A,R.Borulkar, Advocate for the applicant.

Mr.S,D,Tare h/f Mr.S.S.Chaudhari, Advocate for respondent No.2.

( CORAM : RAVINDRA V. GHUGE, J.)

DATE : 18/03/2015

PER COURT :

1. By this application, the applicant prays for condonation of delay of 324 days in filing this application so as to bring on record the legal heirs of deceased Mohd.Mirza Karim Bagwan.

2. Mr.Borulkar has placed on record a communication received from the learned Advocate for the deceased Mohd. Mirza dated 06/05/2010, by which the applicant was informed about the passing away of Mohd.Mirza on 14/03/2003. The said communication is taken on record and marked as "X" for identification.

3. Mr.Borulkar, therefore, submits that based on the said

information, the civil application was preferred on 10/08/2010 and as such the delay caused is minimal in the light of Order 22 Rule 10A of the CPC which mandates the pleader to inform the Court and the other side as regards the passing away of a litigant. He further adds that the applicant is a lady and gains no advantage in causing the delay. She is unemployed and has no means of income.

4. Learned Advocate Mr.Tare, appearing on behalf of opponent No.2 in this application, prays that the said application be rejected as the reason cited for condonation is unacceptable.

5. Barring opponent No.2, all the opponents in this application are absent though served.

6. In the light of the above and in view of the communication Exh.X, this civil application is allowed. The abatement order dated 14/07/2010 is therefore recalled. Delay is condoned.

7. The applicant who is the appellant in SA No.505/1998 shall accordingly carry out the addition and bring the legal heirs of deceased Mohd.Mirza on record within a period of 4 (four) weeks from today.

( RAVINDRA V. GHUGE, J.)