

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.1655 OF 2014
IN
SECOND APPEAL STAMP NO.25300 OF 2013

PRAMOD MURLIDHAR POKHARKAR AND
OTHERS

APPLICANTS

VERSUS

RAMNATH @ RAMESH BALKISAN PADTANI,
LR'S RAJGOPAL AND OTHERS

RESPONDENTS

Mr.R.D.Bhalerao, Advocate for the applicants.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 27/03/2015

PER COURT :

1. By this application, legal heirs of the deceased Murlidhar S/o Vishwanath Pokharkar are sought to be brought on record.

2. Murlidhar was appellant No.3 in Reg.Civil Appeal No.363/2000 (Old RCA No.470/1993). The appeal was pending for 19 years and 6 months and was finally dismissed on 21/06/2013. The elder son and the wife of deceased Murlidhar Vishwanath Pokharkar were appellant Nos. 1 and 2 before the Appeal Court. Despite the death of Murlidhar having occurred on 15/07/2003, this fact was not brought to the notice of the Appeal Court for practically 10 years till the appeal was dismissed on 21/06/2013.

3. Reasons assigned in this application are set out in paragraph No.3 of the application. A mere statement as “*However, his remaining 2 legal representatives i.e. his younger son i.e. Prashant S/o Murlidhar Pokharkar and his daughter Sau.Shailja w/o Sunil Shidore had remained to be brought on record*” is made. Besides this explanation and the submission that the delay is not intentional or deliberate, there is no justification for seeking condonation of delay of 10 years.

4. It is conspicuous that though the wife and elder son of the deceased Murlidhar Vishwanath are appellant Nos. 2 and 1 respectively before the Appeal Court, the death of Murlidhar was not brought to the notice of the Appeal Court and other legal heirs of deceased Murlidhar are not brought on record.

5. In the light of the above, I am not convinced by the explanation put forth. Delay of 10 years, therefore, cannot be condoned without any explanation. Civil application is, therefore, rejected.

(RAVINDRA V. GHUGE, J.)