

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.13264 OF 2013
IN
SECOND APPEAL NO.280 OF 2004

VIJAY MADHAVRAO NAIK AND OTHERS

APPLICANTS

VERSUS

KASHIBA GANGARAM DHANGAR, LR'S
AND OTHERS

RESPONDENTS

Mr.S.V.Natu, Advocate for the applicants.

Mr.A.S.Shelke, Advocate for respondent Nos.1/1 to 1/10.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 23/04/2015

PER COURT :

1. By this applicants, the applicants pray that the legal heirs of deceased respondent No.1 Kashiba Gangaram be brought on record and the delay of 5732 days caused in filing this civil application be condoned.

2. All the respondents in this application are served after notice was issued on 22/10/2013.

3. It is given to understand that Second Appeals Nos. 160/1993, 161/1993, 279/2004 and 280/2004 pending before this Court, arise out of the same and connected proceedings.

4. Mr.Natu, learned Advocate submits that CA No.5605/2010 was filed in SA No.161/1993 for bringing the LR's of Kashiba Gangaram (deceased appellant in the said second appeal) on record. After the said application was filed, the applicants herein gathered knowledge about the said appellant Kashiba Gangaram in SA No.161/1993 and respondent No.1 in SA No.280/2004 has passed away. It was in these circumstances that the applicants have preferred this application on 07/10/2013.

5. Mr.Natu further submits that this Court, by its order dated 18/12/2013, has allowed CA No.5605/2010 in SA No.161/1993 thereby permitting the LR's of deceased Kashiba Gangaram to be brought on record. Mr.Natu, therefore, submits that as a natural consequence, this application deserves to be allowed, delay of 5732 days deserves to be condoned and the LR's of deceased respondent No.1 Kashiba Gangaram be permitted to be brought on record.

6. Mr.Shelke, learned Advocate, appearing on behalf of all the LR's of deceased respondent No.1 Kashiba Gangaram submits that even if the applicants herein can be said to have gathered knowledge about the demise of Kashiba Gangaram after CA No.5605/2010 was filed, yet these applicants have waited for practically 3 years in filing this civil application. As such, the delay of 3 years caused in filing this application, needs to be explained properly. Same has not been done. Civil application, therefore, deserves to be rejected. In the alternative, he submits that if this Court is inclined to allow this application, heavy costs be imposed on the applicants and the said costs be donated to the Advocate Associations' Bar Library, High Court, Aurangabad.

7. Considering the above facts, this application is allowed. Delay caused is condoned subject to the applicants depositing an amount of Rs.3,000/- (Rs. Three thousand only) with the Advocate Associations' Bar Library, High Court, Aurangabad, within a period of 6 (six) weeks from today. After depositing the costs, the LR's of deceased Kashiba Gangaram be brought on record.

8. In the event of non compliance of this order, the same shall stand recalled and the civil application shall stand rejected.

(RAVINDRA V. GHUGE, J.)