

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

CIVIL APPLICATION NO.15480 OF 2011 IN
SECOND APPEAL NO.163 OF 1997

Hemlata d/o Tanku Gadhari

.. Applicant

Versus

Ratan Tanku Gadhari and ors.

..Respondents

Mr Amol Joshi, Advocate h/f Mr Rajendra Deshmukh, Advocate for
applicant

Mr A.I.Deshmukh, Advocate for respondent No.1

CORAM : N.W. SAMBRE, J.

DATE : 9th January 2015

PER COURT

1. The respondent No.2 - non applicant No.2 is reported to be dead.
2. According to applicant, the respondent No.2 was supporting the claim of the applicant - appellant. At this moment, he seeks permission to delete respondent No.2. Permission granted. The respondent No.2 be deleted at the risk of the applicant.
3. This second appeal was dismissed for non-removal of office objections, of which restoration is sought. There is delay of 4621 days in moving this application for restoration.
4. It is not in dispute that another appeal arising out of the same dispute is pending for final hearing i.e. Second Appeal No.164 of 1997.
5. Present second appeal and Second Appeal No.164 of 1997 were admitted and were pending for final hearing.

6. In view of above, if the delay is condoned, in my opinion no prejudice will be caused to the other side, as the Second Appeal No.164 of 1997 is already pending for final hearing and this appeal was admitted and was dismissed for non-removal of office objections.

7. As such, in the interest of justice, delay caused in preferring the present application is condoned subject to payment of Rs.10,000/- (Rs.Ten thousand) to be paid to respondent No.1 within a period of four weeks from today. The payment of costs will be condition precedent.

8. The learned Counsel for the applicant shall produce copy of acknowledgment of payment of costs to respondent No.1, to the Section Officer, Second Appeal branch. Upon production of the same, the second appeal be restored to the file.

9. Civil Application stands disposed of.

(N.W. SAMBRE, J.)

(vvr/15480.11ca)