

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 3894 OF 2012
IN SA/206/2000

TOTARAM DAGADU PATIL (DECD) LRS AND ORS
VERSUS
HARI DAGADU PATIL DIED LRS AND ORS

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Advocate for Applicants : Shri Chaudhary V. T.
Advocate for Respondents 1(i) to 1(viii) : Shri Shah Subodh P.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: April 16, 2015
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PER COURT :-

1. The applicants pray for condonation of 2573 days' delay caused in filing this application for bringing the L.Rs. of respondent No.1 Hari Dagadu on record. Respondent No.3 Bhagwan Hari is the son of Hari Dagadu and is one of his legal heirs, who is already on record.
2. Shri Chaudhary, learned Advocate indicates from paragraph Nos. 1 and 2 that the delay caused is explained. Though the same appears to be inordinate, the applicants do not derive any advantage by causing the delay. He, therefore, prays for condonation of delay and permission to bring the L.Rs. on record.
3. Shri Shah, learned Advocate has appeared on behalf of the L.Rs., pursuant to the notice dated 10.8.2012, issued by this Court. He submits that the deceased Hari Dagadu was the brother of the original appellant Totaram Dagadu and is the uncle of applicant Nos.2 to 5. He, therefore, submits that it is unbelievable that the applicants were not aware of the passing away of their own real uncle. He, therefore, prays for rejection of the application as the reasons assigned are not satisfactory. Alternatively, he prays for heavy costs.

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4. In the light of the above, and since the Second Appeal No.206 of 2000 has been admitted by order dated 21.10.2002 and substantial questions of law having been framed, it would be in the interest of justice that the L.Rs. of the deceased respondent No.1 are brought on record.

5. In the light of the above, this application is allowed. Delay of 2573 days is condoned, subject to costs of Rs.5,000/- to be deposited by the applicants in this Court, within a period of four weeks from today. The legal representatives of the deceased Hari Dagadu are at liberty to withdraw the said amount. The order of abatement as against respondent No.1, is set aside. Upon depositing costs, the applicants shall bring the legal representatives of the deceased respondent No.1 on record, within two weeks therefrom.

6. In the event, the above directions are not complied with, this order shall stand recalled, the Civil Application shall stand rejected and the abatement order shall stand restored.

(RAVINDRA V. GHUGE, J.)

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