

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO.262 OF 2015
IN
SECOND APPEAL NO.624 OF 2005**

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.
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Ms.Jui Nerurkar i/b Mr.P.S.Dani, Sr.Counsel for the applicant

Mr.Sujay H. Gangal for the respondent nos.2.1 to 3.5

CORAM : K.K.TATED, J.
DATED : 27/10/2015

PC:

- 1 Heard the learned counsel for the parties.
- 2 This application is preferred by legal heirs of sole appellant Mahadu Kashinath Patil who died on 5.8.2011 for bringing them on record as appellants in Second Appeal.
- 3 The learned counsel for the applicant submits that for want of knowledge about the pendency of the present Second Appeal there was a delay on their part to prefer appropriate application. He submits that applicant learnt about the present Second Appeal when they received letter from their advocate on record in the month of January

2015. He submits that applicant has good chance of success in the present proceeding. He submits that in the interest of Justice, this Hon'ble Court be pleased to allow the applicant to carry out appropriate amendment in Second Appeal by joining them as original appellants.

4 On the other hand, the learned counsel for the respondent vehemently opposed the present Civil Application. He submits that applicant has not shown sufficient cause for condonation of delay of 3 years 89 days and hence, there is no substance in the present Civil Application and same be dismissed with costs.

5 I have heard both the sides at length.

6 Considering the submissions made by the learned counsel for the Applicant and the averments made in paragraph 5 and 6 of the Civil Application, I am satisfied that the Applicant has made out a case for allowing the present Civil Application. Hence, following order:

- a) Delay in preferring Civil Application is condoned.
- b) Abatement is set aside.
- c) Applicant is permitted to carry out appropriate amendment in Second Appeal No.624 of 2005 by showing them as appellants in place of deceased sole appellant Mahadu Kashinath Patil.

- d) Amendment be carried out on or before 27.11.2015 failing which Civil Application shall stand dismissed without referring back to the court.
- e) If amendment is carried out within stipulated time as stated hereinabove, applicant to serve amended copy of Second Appeal on respondents' advocate thereafter immediately.
- f) Civil application stands disposed off accordingly.

(K.K.TATED, J.)