

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

21 CIVIL APPLICATION NO. 7778 OF 2007
IN SA/126/2003

NARAYAN KASHINATH FARTADE & ANR.
VERSUS
HAMMATRAO MANOHARRAO BAVALE & ORS.

Shri. V.H. Sangole, Advocate, holding for Smt. M.A.
Kulkarni, Advocate, for applicant.

Shri. R.D. Mane, Advocate, for respondent Nos.3-1 & 3-2.

CORAM: T.V. NALAWADE, J.

DATE : 11th MARCH 2016

ORDER:

1) The application is filed for condonation of delay and for permission to bring legal representatives of respondent No.3 - Shripati Fartade, defendant No.4 on the record. Delay of more than 5 years is caused to bring legal representatives of Shripati Fartade on record.

2) Heard learned counsel for the applicants. Seen the contents of the application. This Court has also seen the judgment and decree of the trial Court and the judgment and decree of the first appellate Court. The first appellate Court has given decree of possession in favour

of the plaintiff and that decree is against defendant Nos.1 and 2. The present appeal is filed by defendant Nos.1 and 2. Direction was given to defendant No.3 Smt. Kausalyabai to make correction in the sale deed. She is already arrayed as respondent No.2. In view of these circumstances this Court holds that it will be a sheer wastage of time if the application is allowed and legal representatives of Shripati are brought on record. It appears that Shripati died on 13-10-2001 during pendency of the appeal in first appellate Court and the appeal came to be decided on 30-11-2002.

3) It appears that there is nothing as against respondent No.3. Further sufficient cause is not shown in the application. This Court holds that application cannot be allowed. The application is rejected. The Second Appeal as against original respondent No.3 Shripati stands dismissed as abated. The remaining matter survives. List the appeal for final hearing on 7th April 2016.

Sd/-
(T.V. NALAWADE, J.)

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