

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

9 SECOND APPEAL NO. 440 OF 2015
WITH CA/10880/2015 IN SA/440/2015 WITH CA/1961/2016 IN
SA/440/2015

LEELAVATI BABURAO CHAUDHARI
VERSUS
PITAMBAR SHRIDHAR ATTARDE AND OTHERS

...
Advocate for Appellant : Patil Vijay B.
Advocate for Respondents 6 to 9 : Sanket Kulkarni h/f. M.P. Patil
...

CORAM : T.V. NALAWADE, J.
DATED : 12th August, 2016.

ORDER :

1. Civil Application No. 1961/2016 is filed for condonation of delay in brining legal heirs of respondent Nos. 5 and 10 on the record and for permission to bring them on record and for setting aside the abatement, if any, in respect of those respondents. The proposed legal heirs of the aforesaid respondents are served with the notice of civil application. But, nobody has turned up for them. The delay of 287 and 1537 days is caused in respect of these two respondents, respectively.

2. There is possibility that respondent No. 10 was dead during pendency of the appeal when District Court decided the First Appeal. This circumstance can be considered subsequently as the suit itself was dismissed and plaintiff has come in second

appeal. As nobody has turned up and in view of the contentions made in the application and submissions made, this Court holds that delay is sufficiently explained. So, the application is allowed. Delay is condoned. Permission is granted to bring the legal heirs of respondent Nos. 5 and 10 on the record. Amendment is to be carried out.

3. Notice in the appeal to legal heirs of aforesaid respondents made returnable on 30.9.2016.

[T.V. NALAWADE, J.]

ssc/