

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

11 CIVIL APPLICATION NO.5336 OF 2016
IN FA/172/2002

SACHIN LAKHIMCHAND AGARWAL DIED THR LRS SONIYA AND
ORS

VERSUS

SURESH KISHANRAO CHITEWAR AND ORS

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Advocate for Applicants : Mr. B R Kedar
Mr. J R Patil, Advocate For R/2.

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CORAM : P.R. BORA, J.
Dated: August 18, 2016

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PER COURT :-

1) Heard Shri Kedar, learned Counsel appearing for applicants and Shri J.R. Patil, learned Counsel appearing for Respondent No.2.

2) Learned Counsel for the applicants submitted that when the First Appeal was listed for final hearing, he tried to contact the instructing Counsel, who has conducted the matter before the Trial Court and came to know that the appellant has died in the year 2008 itself. However, immediately thereafter by collecting the names of the surviving

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legal heirs of the deceased appellant, the application has been filed. The learned Counsel further submits that in the connected appeal, the present applicants are taken on record as legal heirs of deceased appellant in that matter.

3) Learned Counsel appearing for Respondent No.2 has opposed for condoning the delay and has also raised the objection about entitlement of the present applicants for continuing the appeal further.

4) By keeping the aforesaid objection open, whether the present applicants are entitled for the compensation by substitution, for the reasons assigned in the application for occurrence of the delay, which according to me are just and sufficient, the present application is allowed. The

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delay is condoned. Abatement if any is set aside. The legal heirs, as are mentioned in the present application, be taken on record. Necessary amendment be carried out within two weeks. CA stands disposed of.

(P.R. BORA, J.)

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