

1. Notice to respondents. Mr. Choudhari, learned counsel waives service of notice for respondent No. 2 whereas learned Assistant Government Pleader waives service for respondent No. 1.
2. This is an application for setting aside abatement and bringing legal heirs of original appellant no. 7 on record.
3. Mrs. Kulkarni learned counsel for applicants submits that factum of death of uncle was not communicated, even otherwise appeal would not abate as other appellants are already on record.
4. Mr. Choudhari, learned counsel for respondent No. 2 opposes application on the ground that there is inordinate delay.

5. Considering the submissions made by respective parties, we are inclined to exercise the discretion in favour of the applicants. However the applicants deserve to be mulct with cost considering the length of delay i.e. ten years.

6. Civil application is allowed in terms of prayer clause "B" on the condition of payment of Rs. 1000/- to the non - applicant/respondent No. 2 within a period of four weeks from today.

7. Civil application stands disposed of accordingly.

Sd/-

[K. K. SONAWANE, J.]

Sd/-

[S. V. GANGAPURWALA, J.]

MTK