

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

922 CIVIL APPLICATION NO. 4 OF 2007
IN SAST/17312/2006 WITH CA/5/2007 IN SAST/17312/2006

KADUBA NAMDEO YEDE AND ANR
VERSUS
AGAJI BAJIRAO CHAWALE AND ORS

...
Advocate for Applicants : N.S. Shah h/f. S.V. Natu
Advocate for Respondents 1 to 3 : P.R. Patil
...

CORAM : T.V. NALAWADE, J.
DATED : 2nd August, 2016.

ORDER :

1. Civil Application No. 4/2007 is filed for condonation of delay of 140 days caused in filing second appeal. It appears that the matter remained pending as some respondents died and some could not be served immediately. Heard both the sides.

2. It appears that by mistake, the order of abatement of proceedings as against respondent Nos. 5A and 6 was made when they are alive. The record shows that they were duly served. The learned counsel for applicants submits that they are still alive and this statement was made on the basis of information supplied by client. Respondent No. 4A is dead, but the suit property, which was standing in the name of respondent

No. 4A is purchased by respondent Nos. 1 and 2 and so, there was no need to bring legal heirs of respondent No. 4A on the record as respondent Nos. 1 and 2 are there as they have stepped in to shoes of respondent No. 4A.

3. In view of the contents of the application and submissions made, this Court holds that sufficient cause is shown. Nothing could have been achieved by the applicants, plaintiffs by not filing appeal in time as decree is already given in their favour.

4. In the result, the application is allowed. Delay is condoned. Register the appeal as second appeal and list the second appeal for admission purpose on 18.8.2016.

[T.V. NALAWADE, J.]

ssc/