

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

921 WRIT PETITION NO. 8985 OF 2014

DNYANOBA PANDHARI KHANDRE, L.RS. INDIRABAI AND OTHERS
VERSUS

TANUBAI @ SAKHUBAI KHANDRAO AND OTHERS

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Advocate for Petitioners : Suryawanshi Prashant D.

Advocate for Respondents 1 to 6 : S.S. Manale

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CORAM : T.V. NALAWADE, J.

DATED : 5th October, 2016.

ORDER :

1. The petition is filed to challenge the order made by the Executing Court in Special Darkhast No. 61/2012 pending in the Court of Civil Judge, Senior Division, Latur. On Exh. 60, the application filed for condonation of delay and for amendment of the application filed in execution proceeding is allowed by the Executing Court. Both the sides are heard.

2. Both the sides are heard. It appears that there was some mistake committed in mentioning the name of decree holder and for that correction was sought. Further, the relief was claimed by the legal heir for condonation of delay as he wanted to come on record as legal heir of one of the decree holder. Present petitioner is the judgment debtor. He opposed the application and as the application is allowed, he has challenged the said order in the present matter.

3. It can be said that there was no necessity of seeking permission or condonation of delay for the legal heirs to come on record. The suit was filed for recovery of compensation which the petitioner has collected in respect of land belonging to decree holders. That decision has become final. It can be said that the judgment debtor is playing every tactics to see that the decree is not executed against him.

4. The learned counsel for decree holder placed reliance on the case reported as **AIR 1998 SC 1168 [V. Uthirapathi Vs. Ashrab Ali]**. In that case, the Apex Court has made observations with regard to the necessity of filing application for condonation of delay when one decree holder dies. In the present case, the decree holders were Hindus and they can get executed the decree and in the present matter, there was no necessity to go for correction or to bring legal heirs as remaining decree holders could have executed the decree. The judgment debtor is trying to misuse the circumstance which is created due to misconception. There are no merits in the petition.

5. The petition is dismissed. Cost of Rs. 10,000/- (Rs. ten thousand) is imposed on the petitioner.

[T.V. NALAWADE, J.]

ssc/