

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

***CIVIL APPLICATION NO. 208 OF 2015
IN
SECOND APPEAL NO. 698 OF 2000***

Vijay Co-op. Magaswargiya Malki
Bhadekaru Sah. Griha Nirman Sanstha. ... Applicant

v/s

Shidgonda Babu Naik & ors. ... Respondents

Mr.G.H. Keluskar for the applicant.

Mr.S.B.Deshmukh for Resp. Nos.1 to 5 and 7 to 11.

Coram: N.M. Jamdar, J.

Dated: 29 July, 2016

P.C.:

The civil application is for condoning the delay in filing the application for setting aside the abatement of the second appeal against Respondent No.6. As regard Respondent No.6, the order dated 13 October 2011 does mention that the second appeal is not ready as heirs of Respondent No.6 are not yet brought on record and liberty is granted to the Applicant to file a fresh application. The contention of the learned counsel for the Respondents is that, after this order is passed no enquiry was made by the applicant and,

therefore, the application need not be entertained. This does not take away the responsibility cast upon the counsel representing the Respondent No.6 to give all particulars of the heirs without which an application for bringing heirs cannot be brought on record. Nothing is placed on record to show that any such communication was issued.

2 In the circumstances, it would be in the interest of justice that the application is allowed.

3 Accordingly, the civil application is allowed in terms of prayer clauses (a), (b), (c) and (d).

4 Amendment to be carried within a period of three weeks from today.

(N. M. Jamdar, J.)