

Sequeira

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

*CIVIL APPLICATION NO. 436 OF 2015
in
SECOND APPEAL NO. 698 OF 2014*

Shri Dnyanoba Nivrutti Jagdale & ors.

... Applicants
Appellants

Vs

Laxman @ Appasaheb Ramchandra
Jagdale (deceased) through his legal heirs
representatives

1A. Sunil Laxman @ Aappasaheb
Jagdale & ors.

... Respondents

Mr.S.P.Thorat, for Applicants / Appellants.

Mr.Nagesh Chavan, for Respondent Nos.1-A to 1-C, 2 to 4.

*CORAM: N.M. Jamdar, J.
Friday, 1 July 2016.*

P.C.:

The Civil Application is filed for bringing heirs of Respondent No.3 on record after condoning delay. The detailed reasons are set out in the Application as to the delay. The learned counsel for Respondents opposes the Application and states that the Application for condonation of delay itself has abated against Respondent No.3 and therefore as of today Respondent No.3 ceases to be on record and therefore, present Application cannot be allowed.

2. Assuming that the Appeal is abated as against Respondent No.3 having not brought his heirs in time on record, the Court is not powerless to consider the Application such as the present one to set aside the abatement and bring the legal heirs on record. The procedural aspect which is advanced by the learned counsel for Respondents as an objection cannot supercede the element of justice that needs to be done in the matter. Therefore, considering the facts and circumstances and another Application will only lead to multiplicity of proceedings, the Civil Application is allowed in terms of prayer clause (a) to (e). Amendment to be carried out within period of four weeks from today.

3. The heirs of Respondent No.3 are served. The learned counsel for Respondents states that he will file his vakalatnama on behalf of heirs of Respondent No.3 as well.

(N.M.Jamdar, J.)