

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

**CIVIL APPLICATION NO.1339 OF 2016
in
SECOND APPEAL NO.945 OF 2004**

Rangubai Khashaba Yadav (since deceased)
through his legal heirs

Kiran Khashaba Yadav .. Applicant

Vs.

Vasant Shrirang Yadav & Ors. .. Respondents

Mr.N.M.Wable i/by Mr.Umesh R.Mankapure for the Applicant.

None for the Respondents.

CORAM : R.D. DHANUKA, J.

DATE : 23rd November 2016

P.C.

. Leave to amend is granted to the applicant to amend the civil application. Amendment to be carried out forthwith. Re-verification is dispensed with.

2. Learned counsel appearing for the applicant states that legal heirs of the deceased respondent no.5 are served. None appears for the legal heirs of the deceased respondent no.5 though served. No affidavit-in-reply is filed.

3. By the civil application, the applicant seeks condonation of delay of 7 years and 15 days in filing the present civil application.

4. I have heard the learned counsel for the applicant and have perused the averments made in the civil application. I am satisfied that

the applicant has explained the delay in filing the present civil application and bringing the legal heirs of the deceased respondent no.5 on record. A copy of Death Certificate of the respondent no.5 is annexed to the civil application. The applicant purely had no knowledge of the legal proceedings. The applicant had applied for death certificate of the respondent no.5.

5. In my view, the applicant has made out a case for condonation of delay and for impleadment of the legal heirs of the deceased respondent no.5 and for setting aside the order of abatement against the respondent no.5.

6. Civil application is made absolute in terms of prayer clauses (b) and (c). No order as to costs. Amendment to be carried out within two weeks from today. Amended copy of the second appeal shall be served upon the respondents within two weeks from the date of carrying out the amendment.

R.D. DHANUKA, J.