

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

**CIVIL APPLICATION NO.303 OF 2016
in
SECOND APPEAL NO.467 OF 1993**

Rukminibai Dattatraya Lad & Anr. .. Applicants

Vs.

Saraswati Dinkar Padekar (since deceased)
through her legal heirs

a) Prakash Dinkar Padekar & Ors. .. Respondents

Mr.Rahul P. Walvekar for the Applicants.

Mr.Mandar Limaye for the Respondent nos.1(a) & 1(b).

CORAM : R.D. DHANUKA, J.

DATE : 23rd November 2016

P.C.

. Mr.Walvekar, learned counsel appearing for the applicants, on instructions, states that the respondent nos.2 and 3 are not necessary parties and his client therefore do not propose to press the reliefs against the respondent nos.2 and 3. Other legal heirs of the respondent no.1 are absent though served.

2. In so far as the legal heirs of the respondent no.1 is concerned, Mr.Limaye, learned counsel appearing for the respondent nos.1(a) & 1(b) waives service and opposes this civil application on the ground that delay is not sufficiently explained. No affidavit-in-reply is filed by the respondent nos.1(a) & 1(b) and also by the other legal heirs of the respondent no.1.

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

the applicants have satisfactorily explained the delay in filing the present civil application.

4. I therefore pass the following order:-

- (i) Civil application is made absolute in terms of prayer clauses (b) and (c);
- (ii) Second Appeal No.467 of 1993 along with Civil Application No.4532 of 1993 and Cross Objection No.3959 of 1993 are restored to file;
- (iii) Civil application is disposed of in aforesaid terms;
- (iv) There shall be no order as to costs.

R.D. DHANUKA, J.