

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CIVIL APPLICATION NO. 213 OF 2016
WITH
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CIVIL APPLICATION NO. 214 OF 2016
IN
REJECTED CASE NO. 1054 OF 2015
(WRIT PETITION NO. 6832 OF 2014)**

Namdeo Shripati Raut and Others ..APPLICANTS

VERSUS

Sarubai Yamaji Kedari and Others ..RESPONDENTS

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Mr. V.P. Latange, Advocate for applicants.

Mr. C.R. Thorat, Advocate for Respondent Nos. 1, 4 and 5.

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**CORAM : RAVINDRA V. GHUGE, J.
DATED : 21st JULY, 2017**

ORDER :

1. Civil Application No. 212 of 2016 is for condonation of delay of 6 years and 256 days for bringing the legal heirs of deceased Respondent No.2 on record. Civil Application No. 213 of 2016 is for recalling of the order of abatement against Respondent No.2 dated 23rd October, 2015.

2. Heard the learned Counsel for the respective sides.

3. The deceased – Respondent No.2 resides in the same village and it is quite difficult to accept that his demise was not known to the petitioners. However, the petitioner would be rendered remediless if the writ petition is abated against the deceased Respondent No.2. Mr. Thorat, learned Counsel submits that heavy costs may be imposed on the applicants/petitioners and the said amount be donated to the Advocate Associations' Bar Library, Bombay High Court, Bench at Aurangabad.

4. Considering the above and in order to meet the ends of justice, both the civil applications are allowed. The order of abatement dated 23rd October, 2015 is recalled. The delay of 6 years and 256 days is condoned on the condition that the petitioners shall deposit an amount of Rs.1,000/- each to the Advocate Associations' Bar Library, Bombay High Court, Bench at Aurangabad within a period of three weeks from today. If the said costs is not deposited, the order of abatement dated 23rd October, 2015 shall stand restored.

5. After the above directions are complied with, the legal heirs of the deceased Respondent No.2 shall be brought on record in the petition within four weeks from today.

6. Mr. Thorat, learned Counsel waives notice for Respondent Nos. 1, 4

and 5. Mr. Latange, learned Counsel submits that he would comply with this order within three weeks.

7. Considering the above, Writ Petition No. 6832 of 2014 be listed for admission on 07th August, 2017. Consequentially, Civil Application No. 214 of 2016 stands allowed and the order of the learned Registrar dated 08th June, 2015 stands recalled. Needless to state, any interim relief granted earlier, to continue till the next date.

(RAVINDRA V GHUGE, J.)

SSD