

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

33 CIVIL APPLICATION NO. 6550 OF 2016
IN FA/301/2008

SANTUKA SUBHAJI DHINDE SINCE DIED THR HIS LRS KANTABAI AND
OTHERS
VERSUS
THE STATE OF MAHARASHTRA.

...
Advocate for Applicants : Patil Milind M. (beedkar)
AGP for Respondent-State : Mr. S.R. Yadav
...

CORAM : K.K. SONAWANE, J.

DATED : 20th NOVEMBER, 2017.

Order :-

1. Heard learned counsel for the applicants and learned AGP for respondent - State. It has been submitted that the original appellant, namely Santuka Subhaji Dinde passed away on 28-04-2010. The applicants are legal heirs of deceased appellant – Santuka Subhaji Dinde and intended to pursue the appeal by substituting them as his legal heirs. Therefore, applicants moved present application with prayer to condone the delay caused for the same.

2. Learned AGP has rightly raised issue, however, learned counsel for the applicants fairly conceded that if the application is allowed, applicants would waive statutory benefit as well as interest amount, if any payable to the applicants after success of the appeal for the so-called period, since April 2010 till allowing the applicants to incorporate their names in the title clause of the present appeal memo.

3. Perused the application and relevant documents produced on record. There is no impediment to allow the applicants to incorporate their names in title clause of the appeal memo by substituting them being legal heirs of deceased appellant. The original appellant died in the year 2010, after such considerable period, if the applicants are

permitted to join the proceedings then there would not be an issue of payment of interest of the so-called delayed period on the compensation amount in case appellant succeed in appeal.

4. In view of aforesaid circumstances and the reasons mentioned in the application, the same deserves to be allowed. Accordingly, application stands allowed in terms of prayer clauses "B and C". The applicants are permitted to bring them on record of first appeal No. 301 of 2008 being legal heirs of deceased appellant. The delay caused in filing the present application for incorporating the names of applicants in title clause of present appeal is hereby condoned subject to condition that the applicants will not claim statutory benefits as well as amount of interest as laid down in the Land Acquisition Act, 1894, for the period of delay sought to be condoned. The applicants to carry out necessary amendment in the appeal memo within two weeks from today.

5. The Civil Application stands allowed in above terms and stands disposed of.

Sd/-

[K. K. SONAWANE]
JUDGE

MTK