

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

(1) CA NO.6167/2016

CIVIL APPLICATION NO. 6167/2016
IN
CIVIL APPLICATION NO.6428 OF 2015
IN
CRAST/226/2000

...
SADASHIV BHILA MAHAR AND OTHERS
VERSUS
GIRIDHAR MLHARI CHOUDHARI (WADAR)
THROUGH HIS LRS AND ORS.

...
Mr. Sharad V.Natu, Advocate for the applicant.
Mr. Chaitanya C.Deshpande, Adv., h/f
Mr. C.R. Deshpande, Adv. for R/1D, and R/1-A, 1-B, 1-D,
1-E, G-I to G-IV, 2C & 2D.

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CORAM : SUNIL P. DESHMUKH, J.
Dated: March 03, 2017

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PER COURT :-

1. Learned Counsel for the applicants refers to the contents of Civil Application at paragraph nos.7 and 7, as well as 9, which are reproduced hereinbelow for ready reference.

"7. Applicants say that, the applicant no.6 died on 27/04/2015 and respondent no.5, 7 and 8 are original decree holder and they died on 29/10/1996, 26/10/1999 and 20/07/2010 respectively. Applicants say that, the applicant no.6 and respondent no.5, 7 and 8 have survived their legal representatives in title clause. Applicants say that, the legal heirs of respondent no.5 are already on record and there is no need to bring legal heirs of respondent no.5 on record,

agp/-

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therefore respondent no.5 may kindly be permitted to be deleted from array of respondents. Applicant say that, the respondent no.7 and 8 are original decree holder and therefore the heirs of respondent nos. 7 and 8 may kindly be permitted to be transposed as applicants.

Copy of death certificates are annexed herewith and marked as Exhibit A collectively.

7. Applicants say that, after receipt of information given by Advocate about deceased respondents no.5, 7 and 8, they tried to collect the death certificates and others documents for filing present application, which took some time. Applicants say that, the surname of resp.no.6, 7 & 8 have are Mahar @ Dodre but it (is) mentioned in death certificate as Dodre, both are correct as per my knowledge.

9. Applicants say that, however, there is delay of 176 days of resp.no.6, the delay of 5469 days of resp no.7, and the delay of 1917 days of resp.no.8 caused to file present application. Applicants say that, this delay is not deliberate in fact it has caused because of above stated reasons. Applicants say that, applicants are the decree holders and because of such peculiar situation and order of learned Court below they are deprived of their legal entitlement. Applicants say that, applicant by way of present applicant are requesting to condone the delay and bring legal heirs of applicant no.6 and respondents respondent no.5, 7 and 8 was original decree holder, therefore may kindly be permitted to be transposed as applicants. "

2. Learned Counsel for the respondents, though resists, however, is not able to overcome the reasons as put forth by the applicants.

agp/-

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3. In the circumstances, it is expedient to grant the application.

4. Accordingly, the application stands granted in terms of prayer clauses A and B, and is disposed of. The efficacy of this order is presently confined so far as Civil Application for restoration is concerned, however, if restoration application is allowed, the same may hold good for the Civil Revision Application as well. Civil Application, accordingly, stands disposed of.

(SUNIL P. DESHMUKH, J.)

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