

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 4305 OF 2010
IN SA/93/2003

MOHD. WALIUDDIN GULAM MOHIUDDIN & ORS.
VERSUS
APPANNA MALIKARJUNAPPA ALURE (DIED) LRS KAMLBAI M
ALURE AND ORS

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Advocate for Applicant : Mrs. A N Ansari
Advocate for Respondents : Mr. V.C. Solshe

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CORAM : SUNIL P. DESHMUKH, J.
DATE : 27/01/2017

ORDER :

1. Heard learned counsel for the parties.
2. This is an application for condonation of delay in bringing LRs. of deceased respondent no.1-B and 1-F on record of the second appeal.
3. Learned counsel for the applicants refers to the underlying reasons causing delay, as have been narrated in paragraph 4-A of the civil application upon amendment. It has been referred to that while notices were issued, the appellants were not aware of the death.

4. It is further being referred to that the bailiff report about their death received around 2008 and around June, 2008 however, it transpired that the concerned respondents had expired way back in 2006 and 2003. Application bearing no. 5257 of 2009 seeking details of the legal representatives from respondent no.1-D had been moved soon thereafter, and the same were supplied in the month of January, 2010. Accordingly, the present application had been moved immediately in January, 2010 itself. Mrs. Ansari submits that despite service of this application on the legal heirs of deceased respondent no.1-B and 1-F, no appearance on their behalf is caused.

5. Mr. Solshe purports to oppose the application however, he has not been in a position to negate the correctness of the reasons given in the application.

6. In the circumstances, it would be expedient to grant application. As such, the application stands granted in terms of prayer clause (B) and (C) (C-1). Civil application disposed of.

7. Second appeal accordingly to proceed with.

8. The title of the appeal memo be amended within a period of two (2) weeks from today.

9. Issue notices of second appeal, upon amendment of the title clause of the second appeal by the appellants, returnable in six (6) weeks thereafter.

[SUNIL P. DESHMUKH]
JUDGE

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