

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

CIVIL APPLICATION NO. 4740 OF 2017 IN FA/1726/2016

GHALAPPA BHADRAYYA SWAMI
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Applicant : Mr. S. K. Mathpati.
AGP for Respondent No.1 to 3: Mr. S. R. Yadav-Lonikar.
Advocate for Respondent No. 5 : Mr. P. A. Salvi (In FA/1726/16)

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CORAM : K.K. SONAWANE, J.
DATED : 15TH NOVEMBER, 2017.

Order :-

Heard Mr. S. K. Mathpati, learned counsel for applicant and Mr. S. R. Yadav, learned AGP for respondents No. 1 to 3 and Mr. P. A. Salvi, learned counsel appearing for respondent No.5.

2. The learned counsel for applicant submits that respondent No. 4 Mahantayya S/o. Mandoleappa Swami is no more and he passed away on 22nd January, 2016. The applicant is intending to bring legal representatives of deceased respondent No.4 on record for further process. There is delay for bringing legal representatives of deceased respondent No.4. According to learned counsel for applicant, delay was not intentional or deliberate, but it was caused due to unavoidable circumstances. Hence, applicant prayed to set aside order of abatement of proceedings following death of respondent No.4 and allow the applicant to amend the memo of appeal accordingly.

3. In view of reasons mentioned in the application as well as no objection on the part of rest of respondents, application stands allowed in terms of prayer clause 'A and B'. The order of abatement of proceedings following death of respondent No.4 Mahantayya S/o. Mandoleappa Swami stands set aside and quashed. The delay for the same is condoned. The applicant is permitted to bring legal representatives of deceased respondent No.4 on record by requisite amendment within two weeks from today. The civil application stands disposed of accordingly in above terms.

**[K. K. SONAWANE]
JUDGE**