

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

**CIVIL APPLICATION NO.8045 OF 2015
IN
SECOND APPEAL NO.619 OF 2012**

Bhanudas Kisan Waghmare,
Age : 62 years, Occ. Agri.,
r/o. Manjar Sumbha,
Tq. Nagar,
Dist. Ahmednagar ..Applicant

Vs.

Ahilaji Gangaram Kadam,
Age : 67 years,
Occ. Agri., r/o. Manjar Sumbha,
Tq. Nagar,
Ahmednagar ..Respondens

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Mr.S.S.Bora, Advocate for applicant

Mr.V.D.Hon, Senior Advocate for respondent nos.1,
3A, 3B

Mr.A.V.Hon, Advocate for respondent nos.2A to 2F

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**CORAM : SANGITRAO S. PATIL, J.
DATE : JULY 24, 2017**

PER COURT :

Heard the learned Counsel for the
applicant and that of the legal representatives of

respondent no.2. There is delay of 2003 days in bringing the legal representatives of the deceased respondent no.2 on record. However, it is the specific case of the applicant that the applicant was not aware of the death of respondent no.2, the learned Counsel for respondent no.2 reported about that fact for the first time on 13.03.2015 and then this application came to be filed on 30.03.2015. It is, therefore, prayed that the delay in bringing the legal representatives of the deceased respondent no.2 may be condoned and his legal representatives may be allowed to be brought on record.

2. The learned Counsel for the legal representatives of the deceased respondent no.2 does not dispute the factual position narrated above.

3. Since the applicant was not aware about the death of respondent no.2 and since the fact of

the death of respondent no.2 was communicated by learned Counsel for respondent no.2 for the first time on 13.03.2015, the delay in filing the application for bringing the legal representatives of respondent no.2 on record will have condoned in the interest of justice. The delay cannot be said to be intentional or deliberate. Abatement will have to be set aside.

4. Hence, the order :-

(i) Delay is condoned.

(ii) Abatement is set aside.

(iii) The legal representatives of the deceased respondent no.2 are allowed to be brought on record.

(iv) The Civil Application stands allowed.

[SANGITRAO S. PATIL, J.]

kbp