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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.13910 OF 2016
IN
CIVIL APPLICATION NO.4621 OF 2016
IN
SECOND APPEAL STAMP NO. 18375 OF 2007

Balu Mahadu Bale
VERSUS
Salubai Chingaji Bale (Died) LRs and Others

APPLICANT
RESPONDENTS

.....
Mr. V. B. Garud, Advocate for the applicant
Mr. S. S. Panale Advocate for respondents

.....
[CORAM : SUNIL P. DESHMUKH, J.]

DATE : 27th JANUARY, 2017

ORDER :

1. Heard learned advocates for the parties.
2. Learned advocate for the applicant contends that for earning livelihood, the applicant had to be away from the place of his usual residence and had not been aware about death of the respondent, since 2012 to 2016 and while in 2016 he became aware, he filed application for bringing legal heirs of deceased respondent on record. In the circumstances, there is delay of four years, two months and thirteen days.
3. Learned advocate for the respondents contends that there are quite a few prosecutions against present applicant, and it

would emerge that he had been attending to those proceedings during this period and further states that in 2016 the prosecution has resulted into applicant's acquittal. In the circumstances, he submits that it does not appear to be a reliable reason for not filing application within prescribed period of limitation.

4. Although it is being submitted so on behalf of the respondents, yet, it does not appear to be disputed by the respondents that the knowledge of the death has been recently to the applicant. In the circumstances, since this is civil dispute, it may be expedient that delay be condoned, subject to mending the inconvenience to the other side by payment of certain compensation in the form of costs.

5. In view of aforesaid, the application is allowed in terms of prayer clauses "B" and "C", subject to payment of costs of Rs.8000/-. Amount of costs be deposited in this court within a period of six weeks from today. In case of failure to deposit the amount of costs, this order would stand recalled without further reference to the court.

6. Civil application stands disposed of accordingly.

[SUNIL P. DESHMUKH, J.]