

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

CIVIL APPLICATION NO. 11755 OF 2016
IN FCA/1/2012 WITH CA/14414/2012 IN FCA/1/2012

KASHINATHRAO WAMANRAO JAIBAHAR DIED THR HIS LRS SAROJAND
ORS
VERSUS
VIJAYSHRI VIJAYKUMAR JAIBAHAR AND ANR

Mr.Hemant Surve, Advocate for the applicants.
Mr.C.V. Bodkhe h/f. Mr.R.V. Gore, Advocate for R-1.

**CORAM : T.V.NALAWADE &
S.M.GAVHANE, JJ.
DATED : 12.09.2017**

P.C. :-

1. Heard. This application is filed for following reliefs:-

i) For condonation of delay caused in bringing legal representatives of sole appellant from F.C.A. No.1 of 2012 on record;

ii) For permission to legal representatives to come on record to prosecute the appeal and;

iii) For setting aside order of abatement along with abatement of appeal.

2. It appears that in F.C.A. No.1 of 2012, the decision of maintenance given in favour of father-in-law was under challenge, but the appellant died during pendency of the appeal. The legal representatives were not brought on record. The husband of the original applicant is dead and so there is possibility of

enforcement of the order of maintenance as against legal representatives of deceased appellant, who are grand-sons of the appellant (applicant Nos.1 to 3) and son of applicant. It appears that there is no issue of original appellant, namely, Vijayshri against whom she can claim maintenance. In view of these circumstances, this Court holds that opportunity needs to be given to the applicants.

3. In the result, the application is allowed. The delay is condoned. The order of abatement of the matter is set aside. Permission is given to the applicants to come on record as legal representatives of original appellant. The amendment be carried out immediately.

[S . M . GAVHANE , J .]

[T . V . NALAWADE , J .]