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

**CIVIL APPLICATION NO. 13065 OF 2015
IN
CIVIL REVISION APPLICATION NO. 194 OF 1999**

Yayabhai Abbasbhai Bohri,
Since deceased through L.Rs.

Hatimbhai Abbasbhai Bohri,
Age: 65 years, Occ: Agri.,
R/o. Hyderali Chowk,
Opp. Post Office, Sindkheda,
Tal. Shindkheda, Dist. Dhule
& anr

..APPLICANTS

VERSUS

Nemichand Ugamrao Company,
Dondaicha, R/o. Jain Sthanak,
Dondaichas, Taluka Shindkheda,
Dist. Dhule & ors

..RESPONDENTS

Mr S.P. Shah, Advocate h/f Mr P.M. Shah, Senior
Advocate for applicants;
Mr Anand Bhandari, Advocate for respondent No.3B

CORAM : N.W. SAMBRE, J.

DATE : 31st JULY, 2017

ORAL ORDER :

Leave to amend.

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2. This revision is by original plaintiff-landlord for eviction of respondent-tenant, in which, original plaintiff reported to be dead on 1st July, 1998, whose legal heirs are sought to be brought on record.

3. The revision against the order of dismissal of the suit, which was dismissed for default, on 8th March, 2002, however, vide order dated 14th October, 2016 passed on Civil Application No. 13064 of 2015 came to be restored after condoning long delay, subject to certain conditions. I am informed that respondent-defendant-tenant questioned the said order before the Apex Court, however, the said attempt was unsuccessful.

4. It is these very reasons which are formed to be basis for moving application for condonation of delay in bringing legal heirs of plaintiff-applicant on record. Though the claim is seriously objected by the respondent-tenant on the ground

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that the delay is inordinate and not properly explained, however, in my opinion, the issue of delay is already gone into by this Court on similar set of facts and reasons in its order dated 14th October, 2016 restoring Civil Revision Application. Apart from above, the fact remains that once revision stood restored, if the applicants are not permitted to be brought on record legal heirs of original plaintiff, the very object of restoring Civil Revision Application will be frustrated, as death of plaintiff is reported to be on 1st July, 1998 i.e. before the civil revision application was restored after condoning long delay.

5. In the aforesaid background, in my opinion, the application needs to be allowed, by ordering delay condonation. Legal heirs of original plaintiff be brought on record by carrying out amendment in the cause title of the revision within a period of two weeks from today. The applicants shall pay costs of Rs.5000/- to the tenant within a period of two weeks from today.

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Payment of cost is a condition precedent.

6. Civil Application stands allowed in above terms.

(N.W. SAMBRE, J.)

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