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

**CIVIL APPLICATION NO.12373 OF 2017
IN
SECOND APPEAL NO.569 OF 2015**

Sujanbai w/o Dattarao Gugane
since deceased through her Lrs.
Rajesh D. Gugane & ors ..APPLICANTS

VERSUS

Laxman Narayan Gugane ..RESPONDENT

Mr P.S. Paranjape Advocate for
petitioner/appellant;
Mr V.P. Kadam, Advocate for respondent

CORAM : NITIN W. SAMBRE, J.

DATE : 29th SEPTEMBER, 2017

ORAL ORDER :

Learned Counsel for the respondent, on technical grounds, opposed the claim for condonation of delay, as legal heirs have filed appeal without praying the Court, be impleaded as the appellant.

2. Such objection is required to be

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overlooked for the reason that the parties, who are litigating are related to each other. Apart from above, the appellant died on 23rd September, 2013 and second appeal was filed on 3rd April, 2014. As such, the fact remains that when the appeal was filed, original plaintiff-appellant expired and legal heirs filed the appeal. In view thereof, the application though objected, needs to be allowed in terms of prayer clause (B) and (C).

3. Civil Application stands disposed of in above terms.

4. Post the matter for admission on 27th November, 2017.

(NITIN W. SAMBRE, J.)

Tupe