

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO. 1499 OF 2016
IN
CIVIL APPLICAITON NO. 26 OF 2015
IN
SECOND APPEAL (ST) NO. 14023 OF 2014**

Ramchandra Basappa Shete/Awati, deceased,
through legal heirs,
1/1 Smt. Nilawati Ramchandra Shete/Awati & Ors. ...Appellants/
Applicants

vs.
Sou.Lalita d/o.Basappa Shete/Awati & Ors. ...Respondents

Ms.Anjali Shiledar Baxi for Applicants.
Mr.Prashant P. Jadhav for Respondent Nos.1 and 2.
Mr.Nitesh Zimur for Respondent No.4.

CORAM : S.C. GUPTE, J.

15 FEBRUARY 2017

P.C.:

Heard learned Counsel for the parties.

2 This civil application is for bringing on record legal heirs of deceased Respondent No.3. The Respondent died on 27 April 2009. The delay of 7 years and 52 days in filing the present civil application is explained in para 2 of the civil application.

3 It is submitted that Respondent No.3 had died during the pendency of the Regular Civil Appeal No.299/2006, when the impugned judgment order came to be passed, which is the subject matter of challenge in the present second appeal. The civil application for bringing legal heirs of Respondent No.3 on record (Respondent Nos.3(a) and 3(d) herein)

came to be allowed by the first appellate court. These Respondents were before the court when the regular civil appeal was decided by that court. It is only because the amendment was not shown in the certified copy of the judgment and order of the first appellate court, that the heirs are not shown in the cause title of the second appeal and hence, the present civil application is taken out. This is an adequate explanation. The delay is, accordingly, condoned and the civil application is allowed in terms of prayer clauses (a) and (b).

4 Fresh notices shall be issued to the newly added Respondents with returnable date as 24 March 2017. The Appellants are also permitted to effect a private service on these Respondents and file an affidavit of service by the next date.

5 Civil Application No.26/2015 to come up for orders on 24 March 2017. The Respondents to file their replies to Civil Application No.26/2015 by the next date with advance service on the Applicant.

(S.C. GUPTE, J.)