

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

**CIVIL APPLICATION NO.4401 OF 2016
IN
FIRST APPEAL NO.2000 OF 2005**

Municipal Corporation of Gr. Mumbai ..Applicant

IN THE MATTER BETWEEN :

Municipal Corporation of Gr. Mumbai ..Appellant

V/s.

Bhaskar Gajanan Bhandari (Deceased)
& Ors. ..Respondents

Ms.Vrushali Kabre for the Applicant.

Mr.P.K. Dhakephalkar, Senior Advocate a/w Mr.Kushal Amin I/by
S.k. Srivastav & Co. for Respondent Nos.1 to 8.

Ms.M.R. Bhoir for the Respondent-MCGM.

CORAM : M. S. SONAK, J.

DATE : 14 FEBRUARY 2017.

P.C.

1. The Civil Application No.4401 of 2016 seeks condonation of delay setting aside of abatement and leave to bring on record legal representative of respondent No.1-Bhaskar Gajanan Bhandari. No doubt there is considerable delay in taking out such application, since, the respondent no.1 expired on 05-12-2005. However, there is no dispute that the fact of such demise was

intimated to the MCGM on 01-08-2013. The application states that the letter dated 01-08-2013 was however, misplaced and it is only on 23-09-2016, when, the MCGM received another letter along with the steps that were taken.

2. Although, the MCGM could have been more diligent, it cannot be said that they have been totally negligent in the matter. There is sufficient cause shown for condonation of delay though, MCGM, is required to pay costs to the legal representatives of deceased respondent No.1. An affidavit in reply is filed on behalf of Respondent Nos.1 to 8 by one Mr.Anubhav Agrawal opposing the condonation of delay. Even, upon consideration of such affidavit, this is really not a case where the delay ought not to be condoned. The Civil application No.4401 of 2016 is therefore allowed. Delay is condoned. Abatement is set aside and leave is granted to bring the legal representatives of the deceased respondents on record. This exercise is to be completed within four weeks from today. Further, the MCGM to pay costs of Rs.5,000/-. Such cost should be paid within a period of four weeks from today. The Civil Application is disposed of.

(M. S. SONAK, J.)