

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.2870 OF 2016
IN
WRIT PETITION NO.1434 OF 2015**

Shri. Rajesh Bapuso Yemkanmardi **..Applicant**

IN THE MATTER BETWEEN

Shri. Rajesh Bapuso Yemkanmardi and others **..Petitioners**
Versus

Praful Jamanadas Padiya and others **..Respondents**

Mr. Nausher Kohli i/by DSK Legal for the Applicant.

**Mr. Devendra Avhad i/by Thodur Law Associates for the Respondent
Nos.1 to 13.**

Mr. S. R. Ganbavale for the Respondent Nos.14 & 15.

Mr. S. H. Kankal, AGP for the Respondent Nos.16 to 19.

CORAM : R. M. SAVANT, J.

DATE : 20th MARCH, 2017

PC.

1 The above Civil Application has been filed to bring the heirs of the Respondent No.2 and the Respondent No.3 and for condonation of delay and setting aside the abatement qua the said Respondents. The heirs of the Respondent No.2 are already on record in their individual capacity and are shown as Respondent Nos.1, 3, 4 and 13.

2 In so far as the Respondent No.3 is concerned, she has three heirs. Her husband and son are in Ahmedabad, whereas the second son is in Calgary, Canada. The Learned Counsel appearing for the original Respondent No.3 states that he has obtained the Vakalatnama of the

husband and the other son of the Respondent No.3 but has not been able to contact the second son who is in Calgary, Canada. In my view, the said fact cannot impede the hearing of the above Writ Petition for admission as the estate of the Respondent No.3 would be represented by her husband and her son who is residing with the husband in Ahmedabad. The Civil Application is accordingly allowed, the delay in filing the same would stand condoned. The abatement would stand set aside. Amendment in the Writ Petition to be carried out on or before 31.03.2017.

3 The Learned Counsel for the Respondent No.3 may intimate the Attorneys the Petitioners in the event he obtains the Vakalatnama of the son who is in Calgary, Canada, so that the Attorneys of the Petitioners could carry out the amendment and implead the son who is in Calgary, Canada as a party Respondent to the above Petition. List the Petition for admission after three weeks i.e. on 10.04.2017. The consequential amendments which are necessary to be made in the above Petition in view of the heirs of the Respondent Nos.2 and 3 being brought on record are permitted to be carried out. The ad-interim relief would continue to operate till then. The Civil Application is accordingly disposed of.

[R.M.SAVANT, J]