

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

C.A.O. NO.116/2017 IN MCA ST. NO.20542/2016 IN MCA ST.22630/2011
(RC306/12) IN FIRST APPEAL NO. 417/1996 (D)

(BHAIYYALAL KISAN BHAGATPURE (DEAD) THR. LRS SMT.LILABAI BHAIYYALALA BHAGATPURE &
 OTHERS **VERSUS** THE STATE (THR.COLLECTOR, AMRAVATI) SUB-DIVISIONAL OFFICER AND LAO,
 AMRAVATI)

 Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

Shri V.G. Bhamburkar, counsel for the applicant.
 Mrs.Harshada Prabhu, A.G.P. for the respondent.

CORAM : S.B. SHUKRE, J.

DATE : OCTOBER 04, 2017.

Heard Shri V.G.Bhamburkar, learned counsel for the applicants, viz. Legal heirs of the original appellant and Mrs.H.Prabhu, learned Assistant Government Pleader for the respondent-State.

The respondent-State has filed reply to this application taking strong exception to it. There is, however, some justification given for the delay by the legal heirs of the original appellant. This justification shows that the legal heirs of the original appellant have put the entire blame upon the shoulders of the learned counsel. Learned counsel, on his part, also submits that there was a bona fide mistake in not filing the applications within the time granted by this Court.

Considering the facts and circumstances of this case and taking an overall view of the matter, I find that there is at least absence of *mala fides* on the part of the legal heirs of the appellant and if that is the case, I do not think that substantive rights of the legal heirs of the appellants should be allowed to be scuttled by taking a too technical view.

Therefore, I am of the opinion that this application deserves to be allowed by imposing appropriate costs. The application is allowed. Delay is condoned subject to payment of costs of Rupees One Thousand to the High Court Legal Services Sub-Committee, Nagpur within a period of two weeks from the date of the order, failing which this application shall stand dismissed without further reference to the Court.

M.C.A. ST. NO.20542/2016.

Heard.

For the reasons stated in this application and also for the reasons which weighed with this Court while allowing C.A.O. No.116 of 2017, I am of the view that this application deserves to be allowed and it is allowed accordingly. The appeal be restored to the original file on payment of costs within stipulated period of time, failing which the restoration of the appeal would not take place. The office objections, if any, be removed within two weeks after restoration of the first appeal.

The application stands disposed of accordingly.

JUDGE

APTE