

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.992 OF 2018
(Vasantrao Pundlik Shimpi Vs. Jasodabai Narayandas Nukhiya and others)

Mr.Mukul Kulkarni, Advocate for the applicant.
Mrs.P.A.Bhandari h/f Mr.A.P.Bhandari, Advocate for respondent Nos.3A, 3C,3D, 4 to 6.
Mr.Deepak Choudhari h/f Mr.J.R.Shah, Advcate for respondent No.1A.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 12/10/2018

PER COURT :

1. The applicant/original petitioner prays for condonation of 9 years and 5 months delay caused in filing this civil application for bringing the LR's of the deceased original defendant No.1 Jasodabai, on record in the writ petition.

2. It is submitted that the petitioner is a small time tailor and is about 81 years of age today. He is the original plaintiff in RCS No.17/2008. Before the Trial Court, none of the defendants who are related to each other, have informed the Trial Court that Jasodabai passed away in 2008. In this petition, when notices were issued, the office report indicated that the notice could not be served as Jasodabai has passed away almost 9 years ago. In the absence of

the compliance of Order XXII Rule 10-A of the CPC, the learned Advocate for Jasodabai failed to discharge his duty. Immediately after realizing this fact in the pending writ petition, the petitioner has filed this civil application.

3. All the LR's of Jasodabai have been served. Non applicant No.1A is the husband of Jasodabai. Mr.Shah appears on his behalf and prays for costs, to be donated to the treatment of poor patients. Mrs.Bhandari, learned Advocate, though opposes on behalf of other defendants, prays for costs, in the alternative.

4. In view of the above, though the delay seems to be large, the explanation tendered by the petitioner is convincing. This civil application is, therefore, allowed. Considering the age and the profession of the petitioner, the delay is condoned with the direction that the petitioner shall deposit costs of Rs.2,000/- (Rs.Two thousand only) with the Government Medical College and Hospital, Aurangabad, **through Medical Officer, High Court Dispensary, Aurangabad**, either in cash or by Demand Draft (Demand Draft be drawn in the name of **"Dean, Government Medical College and Hospital, Aurangabad Dengi Samiti"**) on or before 01/11/2018.

The LR's of deceased Jasodabai shall be brought on record on or before the same date, in the writ petition.

5. Notice be issued to the LR's of deceased Jasodabai in the writ petition, returnable on 07/12/2018. Learned Advocate waives service on behalf of respondent No.1A.

6. Interim relief, granted earlier, would continue till the next date.

(Ravindra V.Ghuge, J.)