

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CIVIL APPLICATION NO. 2811 OF 2009
IN SECOND APPEAL NO. 176 OF 1998

Bhagatram S/o. Rahindomal Rajdeo, Deceased,
his L.Rs 1-A Smt. Kalawati w/o. Bhagatram Rajdeo and others
Versus
Baburao S/o. Rambhau Mali

...
Advocate for Applicants : Ms. Rekha H. Chaudhari h/f.
Mr. S.S.Chaudhari
Advocate for Respondent : Mr. K. J. Ghute Patil
...

CORAM : A.M. DHAVAL, J.
DATE: 7th DECEMBER, 2018

ORAL ORDER :

1. This is an appeal of the year 1998, which was admitted by the order dated 04-10-2000. The sole appellant died on 31.05.2007. His legal representatives filed Civil Application No.15638 of 2007 for bringing themselves as L.Rs on record on 23rd August, 2007. There was small delay of 9 days, which was condoned. The application was not registered on the objection that signatures of all the legal heirs were not there on the vakalatnama.

2. Since only some of the legal heirs could have filed Civil Application and not available L.Rs. could have been shown as respondents. The Civil Application should not have been dismissed on the objections raised.

3. Since II Appeal is admitted and the Civil Application for bringing LR's. was filed within short time, the justice cannot be denied to the applicants on technical grounds. The dismissal itself was wrong. The Civil Application could have been registered in the name of LR's. who have signed vakalatnama and Civil Application. Considering the facts, Civil Application No. 2811/2009 is allowed and disposed of accordingly. Civil Application Stamp No. 15638/2007 is restored.

4. Since the said Civil Application was filed within time, the LR's. signing Civil Application and vakalatnama be brought on record.

(A.M. DHAVALA)
JUDGE

mta