

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

**CIVIL APPLICATION NO. 3319 OF 2018
IN
WRIT PETITION NO. 2472 OF 1995**

LAXMAN NARAYAN MANE THROUGH LRS VITTHAL LAXMAN
MANE AND OTHERS
VERSUS
DEVIDAS BHAURAO POLE & OTHERS

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Advocate for Applicants : Shri K. D. Bade Patil
Advocate for Respondent Nos. 1 to 4 : Shri G. C. Navandar

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**CORAM : RAVINDRA V. GHUGE, J.
DATED : 20th JULY, 2018.**

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PER COURT :

1. By this Civil Application, the applicants pray for condonation of delay of 20 years and 9 months caused in filing this application for bringing the L.Rs. of the deceased - sole petitioner on record.

2. It is pointed out that the Writ Petition lodged on 03/03/1993 registered as Writ Petition No. 2472/1995, has still not abated as there is no formal order of abatement.

3. Reasons in support of the condonation of delay are stated to be that the original petitioner passed away on

05/03/1997 and thereafter the learned Advocate representing the deceased petitioner had curtailed his practice and stopped his appearance in Court. The applicants are illiterate and the issue involved in this petition is with regard to restoration of possession of lands admeasuring 7 Acres and 28 Gunthas. An irreparable loss would be caused to the applicants if the petition is abated as they are likely to lose their agricultural land.

4. The learned Advocate for the respondents is relying upon the affidavit in reply dated 14/06/2018 filed by one of the respondents. His contentions are that after the original petitioner passed away, these L.Rs. have moved the revenue authorities for correcting the mutation entries. An application for seeking heirship certificate was also sought. Entries in the register were also carried out by the Grampanchayat and the Talathi in view of the heirship certificate. These applicants, therefore have been negligent and the delay of 20 years and 9 months has not been properly explained. In the alternative, it is submitted that heavy costs be imposed on these applicants and a portion of the costs be donated to the Ghati Hospital for the treatment of poor patients.

5. Having considered the factors as recorded above, I find that the Writ Petition has still not been abated by a formal order of this Court. The issue involved is an immovable agricultural land and the deceased- petitioner Laxman claims to be a protected tenant under Section 38-E of the Hyderabad Tenancy and Agricultural Lands Act. In these peculiar circumstances and taking into account that the litigation in between the rival parties has still not been concluded as the petition is pending, it cannot be said that the litigation would be re-opened after 21 years.

6. On these premises, the Civil Application is allowed in terms of prayer clause B] and C] which read as under :-

B] Applicants may kindly be permitted to bring L.Rs. Of petitioner as 1-A to 1-E on record and for that purpose pass necessary order.

C] Delay cause in filing above civil application for bringing L.Rs. on record may kindly be condone.

7. The applicants shall deposit an amount of Rs. 12,000/- in this Court and by the consent of the parties shall further

deposit Rs. 3,000/- as donation for the Government Medical College and Hospital, Aurangabad, to be deposited with the Medical Officer, High Court Dispensary, Aurangabad, either in cash or by Demand Draft, to be drawn in the name of “Dean, Government Medical College and Hospital, Aurangabad - CSR Fund” on or before 20/08/2018, failing which this order shall stand recalled, the Civil Application stands rejected and the Writ Petition shall stand abated on 21/08/2018 without reference to the Court. Request for extension of time shall not be entertained.

8. The four non-applicants- original respondents are at liberty to withdraw the amount of Rs. 12,000/- in equal proportions either individually or through one of the respondents, without conditions.

9. If the above directions are complied with, list Writ Petition 2472/1995 for final hearing on 30/08/2018.

(RAVINDRA V. GHUGE, J.)

shp/-