

IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
BENCH AT AURANGABAD

CIVIL APPLICATION NO.13462 OF 2017  
(Jijabai Limbraj Narke Vs. Shantabai Kashinath Bhokar and others)  
IN  
SECOND APPEAL NO.138 OF 2013  
WITH  
CIVIL APPLICATION NO.13467 OF 2017  
(Ujawala Limbraj Narke and others Vs. Shantabai Kashinath Bhokar)  
IN  
SECOND APPEAL NO.137 OF 2013

Ms.S.V.Salunke h/f Mr.V.D.Salunke, Advocate for the applicants.  
Mr.R.B.Deshmukh, Advocate for respondent No.1.  
Mr.D.P.Munde, Advocate for respondent No.3, 3A and 3B.

( CORAM : RAVINDRA V. GHUGE, J.)

DATE : 09/02/2018

PER COURT :

1. By the first civil application, the original appellant/applicant prays for condonation of delay of 1178 days caused in filing this civil application for bringing the LR's of deceased appellant No.2 Limbraj on record in the first second appeal. In the second civil application, the prayer is made for condoning delay of 1178 days in bringing the LR's of deceased respondent No.3 Limbraj who is appellant No.2 in the earlier second appeal.

2. Mr.Deshmukh, learned Advocate appearing on behalf of respondent No.1 in both the second appeals, strenuously opposes the

civil applications. He submits that the delay is too large. Reasons cited are not satisfactory. LR's of Limbraj were aware that Limbraj is prosecuting these two proceedings and should have promptly come forward to seek leave to be brought on record.

3. Learned Advocate for the LR's of Limbraj strenuously submits that the LR's were unaware about the pending litigation. It was only when they realized that the LR's have to be brought on record in the second appeal, that they have rushed to their Advocates. Both the second appeals have been admitted by framing substantial questions of Law. Interim relief is also granted and hearing in both the appeals has been expedited. They gain no advantage by causing the delay. In fact, they would lose all claims if they deliberately cause any delay.

4. Considering the submissions of the learned Advocates as recorded above, the interim relief granted by this Court and that an immovable house property is involved in this litigation, I deem it appropriate to condone the delay. There are no laches or ulterior motives attributable to these applicants.

5. At this juncture, Mr.Deshmukh submits that heavy costs may be imposed and the same may be donated to the Advocate's

Association of the Bombay High Court, Bench at Aurangabad.

6. Considering the above, both these civil applications are allowed. Since the LR's of deceased Limbraj are to be brought on record in both these second appeals and considering that there are 3 LR's inclusive of the widow of Limbraj, the applicants shall pay a total costs of Rs.3,000/- to be deposited with the Advocate's Association of the Bombay High Court, Bench at Aurangabad on or before 09/03/2018, failing which, this order shall stand recalled and both the civil applications stand rejected.

7. The LR's shall be brought on record in both the second appeals by the respective appellants on or before 09/03/2018. Interim relief, granted earlier, shall continue.

( RAVINDRA V. GHUGE, J.)