

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 14611 OF 2016
IN WP/181/1994
WITH
CA/14610/2016 IN WP/181/1994

SHAKIR ALI ISAQ ALI
VERSUS
AMRUTA SITARAM BIRAJDAR AND OTHERS

...
Mr. A.A. Khan, Advocate for applicants in both CAs
Mr. V.C. Solshe, Advocate for respondent no.1 in WP in both CAs
...

CORAM : SUNIL P. DESHMUKH, J.
DATE : 10-08-2018

ORDER :

1. Heard learned counsel for the parties.
2. Civil application no. 14610 of 2016 is for delay condonation in civil application for bringing on record legal representatives of deceased petitioner.
3. It is submitted on behalf of the applicants that writ petition had been filed by father of the applicants way back in 1994. Applicants were unaware of the pending litigation. Applicants are labourers and illiterate persons. Pendency of litigation came to their knowledge while they had come across lawyer of their father, accidentally. During the conversation, it transpired that litigation had been pending at the instance of their

father and they intimated the lawyer that their father has died in 2003. Lawyer had, therefore, advised them to file application for bringing themselves on record along with an application for condonation of delay. Accordingly, applications had been moved. In the process, there is delay of 12 years and odd days.

4. Learned counsel Mr. Solshe appearing for respondent no.1 in writ petition, however, resists the application, stating that there are no averments in the application, as are being canvassed now. He submits that there is time lag in filing the applications by legal representatives, while application for bringing legal representatives on record is filed in 2014, application for delay condonation is filed in 2016.

5. Learned counsel for the applicants submits that although application had been filed earlier for bringing legal representatives on record, a separate application had not been filed for delay condonation. It has been so filed as advised.

6. Since there is no particular dispute about the factual position about the father prosecuting the litigation and applicants being labourers and the events, as referred to above, it appears in the fitness of things, to allow both the applications in order to have a fair contest on merits of the matter and to condone the delay.

7. Delay is condoned, subject to deposit of costs of Rs.5,000/- (Rs. Five Thousand) in this court within a period of four weeks from today. Legal representatives of deceased writ petitioner be brought on record and amendment accordingly be caused in six weeks from today.

8. On deposit of costs, respondent no.1 is at liberty to withdraw the amount.

9. Accordingly, both the applications are allowed and are disposed of.

[SUNIL P. DESHMUKH]
JUDGE

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