

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION***

*CIVIL APPLICATION NO. 885 2016
IN
SECOND APPEAL NO.905 of 2006*

Shri.Rajaram Ramchandra Kumbhar & anr. ..Applicants.

In the matter between

Ramchandra Sripati Kumbhar ..Appellant

V/s.

Uttam Sitaram Yadav & anr. ..Respondents.

Mr.Saurabh S. Kurade i/b. Vijay Dinkarrao Patil for the Applicants.

Mr.K.P.Shah i/b. Mr.P.B. Shah for Respondent no1.

CORAM : N.M. Jamdar, J.

DATED : 12 January , 2018.

P.C. :-

. Heard learned counsel for the parties.

2. By this application, the Applicants have sought to brought on record heirs of deceased Appellant. They have also prayed for setting aside the abatement and to condone delay of 324 days i.e. almost two years. The Respondents have filed their reply.

3. I have gone through the application and the reply. In the application the reason is set out that the litigation was looked after by the deceased Appellant father of the present Applicants and they were not aware of the litigation and it is only after enquiries were made, they were advised that they have to be brought on record.

4. Perused the application. The record shows that the suit is in respect of an agriculture land. The Applicants are agriculturist. Therefore, the theory put up by them that they were not aware of the litigation as well as the requirements for bringing themselves on record, cannot be stated as an impossible reason. I am of the opinion to balance the equities, the Applicants can be directed to pay costs for allowing the application.

5. Accordingly, Civil Application is allowed in terms of prayer clauses (a) and (b) subject to the Applicants paying costs of Rs.5000/- to the Respondents within a period of three weeks from today. Amendment to be carried out within a period three weeks.

(N.M. Jamdar, J.)