

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

**CIVIL APPLICATION No. 1259 OF 2012
WITH
CIVIL APPLICATION No. 218 OF 2018
IN
REJECTED CASE No. 1441 OF 2011
(SECOND APPEAL ST. No. 19200 OF 2007)**

Ramkrishna Pralhad Mahamuni
since deceased through legal heirs
Nandkumar R. Mahamuni & Ors.

... Applicants

Vs.

Vishwambhar Sakharam Mahamuni

... Respondent

.....

Mr. Uday P. Warunjikar a/w. Mr.Siddhesh Pilankar for the
Applicants.
Mr. Rahul S. Kate for the Respondent.

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**CORAM: MRS.MRIDULA BHATKAR, J.
DATED: APRIL 11, 2018**

P.C. :

1. Pursuant to the order dated 9th February, 2018 passed by this Court in Civil Application No. 165 of 2018, the cost of Rs. 3000/- + Rs. 5000/- = Rs.8000/- is paid by the applicants to the respondent/ decree holder by cheque. The conditional order of payment of cost of Rs. 5000/- was passed in Civil Application No. 1259 of 2012. As the applicants have complied with the

conditional order, Civil Application No. 1259 of 2012 is hereby allowed.

2. It is pointed out by the learned Counsel for the respondent that the sole respondent- Vishwambhar Sakharam Mahamuni expired on 1st December, 2008. He submits that as the sole respondent has expired, proceedings abates.

3. The learned Counsel for the applicants submits that the applicants have taken out Civil Application No. 218 of 2018 for bringing on record the legal heirs of the sole respondent -Vishwambhar Sakharam Mahamuni. There is a delay of 4 years and 359 days. Hence, he prays that the said delay be condoned and the legal heirs of the sole respondent be brought on record.

4. The sole respondent expired on 1st December, 2008. When the fact was pointed out before this Court, the applicants had knowledge of the death of the sole respondent on 3rd August, 2012. From the date of knowledge, the period is to be computed, which comes to 4 years and 359 days and the Civil Application is filed on 24th February, 2018.

5. In view of the above, issue notice to the legal heirs of the sole respondent, returnable on 6th June, 2018. Interim relief, if any, to continue till then.

6. It is noted that the learned Counsel for the applicants has given only one address for all the respondents, whose names are different.

(MRIDULA BHATKAR, J.)