

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

**CIVIL APPLICATION NO. 3891 OF 2013
IN
FIRST APPEAL NO. 914 OF 2012**

The Commissioner, Nashik Municipal
Corporation, Nashik.

... Applicant.

V/s.

Vinayak Mahadev Upadhye, since deceased
by his Lrs :

1A. Prasanna Vinayak Upadhye & Ors.

... Respondents.

Mr. Rupesh Lanjekar, Advocate, I/by Murlidhar L. Patil,
Advocate for the Applicant.

Mr. A. R. Patil, AGP for Respondent No. 4.

CORAM : K.K. TATED & N.J. JAMADAR, JJ.

DATE : OCTOBER 16, 2018.

PC :

1 Heard learned counsel for the parties.

2 Though legal heirs of deceased Respondent No.1
are duly served, no one appears on behalf of them when the
matter is called out.

3 By this civil application, applicant is seeking to
allow them to bring on record legal heirs of deceased
respondent no.1 - Vinayak Mahadev Upadhye, who died on
19.11.2012. He submits that the delay in the present
application be condoned.

4 Considering the submission of the learned counsel for the applicant and the averments made in the civil application, we are satisfied that the applicant has made out a case for allowing the present application.

5 Hence, the following order :

- i. Delay in preferring the civil application is condoned.
- ii. Abatement is set aside.
- iii. Applicant is permitted to bring legal heirs of deceased Respondent No. 1 in first appeal No. 914 of 2012 on or before 31st October, 2018; failing which the civil application shall stand dismissed without referring back to the court.
- iv) If the amendment is carried out within stipulated period, as stated hereinabove, the applicant to serve amended copy of the first appeal on other side by private notice either by hand delivery and/or by registered A.D. post.
- v) If amendment is carried out within stipulated time, the Registry is directed to issue notice to the added respondent in first appeal no. 914 of 2012.

Civil application is allowed in the aforesaid terms and disposed of accordingly with no order as to cost.

(N.J. JAMADAR, J.)

(K. K. TATED, J.)

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