

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

Civil Application NO. 2228 OF 2017**IN****Writ Petition NO. 3713 OF 1998**

Dr. Mukund Shivram Warawdekar (decd) Through LRs. ...Applicants

Versus

Pravinchandra V. Gandhi (decd) And Ors

...Respondents

Mr.Rajesh Patil, for the Applicants.Mr.Prashant Chavan with Mr.Murari Madekar, Mr.Sachin Kudalkar i/b.
M/s.Madekar & Co., for Respondent Nos.1 to 5.

CORAM : G.S.KULKARNI, J.***DATE : 8th JANUARY, 2018*****P.C. :**

1. The application is for bringing legal heirs of the deceased petitioner no.3 Mrs.Yamini Adivarekar on record who are applicant nos.3(a) and 3(b) in the present application namely Miss.Avanti Bharat Adivarekar and Miss.Gayatri Bharat Adivarekar. There is delay of 5 years and 25 days in filing this civil application. There is a reply affidavit filed on behalf of respondent Nos.1 to 5 opposing the present civil application and more particularly on the ground of delay in filing the present civil application and that right to prosecute the proceedings, would not be available to the present applicants, as more particularly set out in paragraph 2(d) of the reply affidavit.

2. Considering the nature of the application and the averments as made in the application, in my opinion, the delay has been satisfactorily

explained. In the interest of justice, the civil application is required to be allowed. It is accordingly allowed in terms of prayer clauses (a), (b) and (c).

3. Necessary amendments be carried out within three weeks from today. The contention as urged on behalf of respondent nos.1 to 5 on merits of the matter and the absence of any right to the applicants in pursuing the petition is expressly kept open, to be agitated at the final hearing of the petition.

4. Civil application is accordingly disposed of. No costs.

5. List the petition for final hearing as per its turn.

(G.S.KULKARNI, J.)