

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**16 CIVIL APPLICATION NO.3913 OF 2017
IN SA/913/2016**

SHANKARRAO RANGNATHRAO KULKARNI LRS BHALACHANDRA AND
ANOTHER
VERSUS
GANPATI SHAMRAO MANE DIED LRS VYANKAT AND OTHERS

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Advocate for Applicants : Deshpande C.R.

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CORAM : SMT. VIBHA KANKANWADI,J.

DATE : 18th MARCH, 2019

PER COURT :

1 Present application has been filed to get the delay of 167 days condoned and setting aside the abatement as the legal representatives of sole appellant were not brought on record within stipulated period.

2 It is contended that the Second Appeal is filed challenging the Judgment and Decree passed in Regular Civil Appeal No.75/2006 dated 30.09.2015 by learned District Judge-3, Latur, in which the dismissal of the suit filed by the appellant i.e. Regular Civil Suit No.76/1974 dated 21.03.2006 was challenged. The sole appellant expired on 05.05.2016 leaving behind the present applicants. However, during the pendency of this application the proposed appellant No.1B has also expired on 15.04.2018.

Prior to that she was ailing. At the time of her death she was around 80 years and therefore he was required to look after the mother and therefore, it is stated that the delay has been caused.

3 It is to be noted that as regards the main matter is concerned, the respondents were not served. Under such circumstances, it is not necessary to issue notice to them. The reason, that has been given for condoning the delay appears to be reasonable and sufficient. Hence, the application is allowed.

4 The delay is hereby condoned.

5 Legal representatives of appellant be brought on record i.e. appellant No.1A only, taking into consideration the fact that appellant No.1B has expired now.

6 Amendment be carried out within 14 days from the date of this order and the appeal be placed for consideration on 04.04.2019.

(Smt. Vibha Kankanwadi, J.)

agd