

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

**1071 CIVIL APPLICATION NO.3534 OF 2019
IN SA/557/2017**

SUNDRABAI GUNDU KARNURE AND OTHERS

VERSUS

BABU GAJABA KARNURE DIED THROUGH LRS GIRJABAI AND OTHERS

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Mr. J. M. Murkute, Advocate for applicants.
Advocate for Respondents No.1A to 1E : Mr. S. N. Patne.
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CORAM : SMT.VIBHA KANKANWADI, J.
DATE : 14-06-2019.

PER COURT :

1. Present application has been filed for the recall of order passed by this Court on 06-02-2019, to condone the delay of 170 days in bringing the legal representatives of present respondent No.1.
2. It appears that, respondent Babu s/o Gajaba Karnure expired on 07-06-2018. Thereafter, the applicants had filed an application before this Court seeking directions to the Sarpanch to issue death certificate. In the said civil application, statement was made by Sarpanch that he will issue certificate and therefore that application came to be disposed of, and it is stated that immediately thereafter the applicants obtained the death certificate, however, there is delay of 170 days. In the

meantime the application as well as appeal was dismissed by order dated 06-02-2019.

3. Heard both sides.

4. Perusal of the order dated 06-02-2019 would show that, the applicants had unnecessarily filed Civil Application No.13497 of 2018 for directions to the Sarpanch, when in fact they ought to have gone to the Grampanchayat Office and obtained the death certificate on payment of requisite charges. In spite of granting sufficient time to approach the concerned authority, when death certificate was not obtained by the applicants, the appeal as well as application was dismissed on that day as against present respondent No.1. In fact in this application also there is absolutely no reason given by the applicant for not approaching the Grampanchayat office even after the disposal of the Civil Application No.13497 of 2018. However, taking into consideration the fact that, now they have obtained the death certificate and they are ready to bring the legal representatives on record, the said order passed by this Court on 06-02-2019 deserves to be recalled. At the same time for taking unnecessary time, cost are required to be saddled on the applicants while condoning the delay. Hence the order.

ORDER

- 1) The application is hereby allowed.
- 2) Order passed by this Court on 06-02-2019 in Second Appeal No.557 of 2017 and Civil Application No.10812 of 2017 is hereby recalled.
- 3) The delay caused in bringing the legal representatives of present respondent No.1 on record is hereby condoned subject to deposit of cost of Rs.1000/- (one thousand) within 15 (fifteen) days from today with the High Court, Legal Services Authority, Bench At Aurangabad.
- 4) After the amount of cost is deposited, applicant to carry out the necessary amendment for bringing the legal representatives of present respondent No.1 on record within 15 (fifteen) days thereafter.
- 5) Application is disposed of accordingly.

(SMT. VIBHA KANKANWADI)
JUDGE

vjg/-