

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

**CIVIL APPLICATION NO. 3976/2019 IN
X-OBJST/9196/2019 WITH CA/3977/2019 IN
X-OBJST/9196/2019 WITH CA/3978/2019 IN
X-OBJST/9196/2019
IN SECOND APPEAL NO.222/2001**

**SAU. MUKTABAI BABURAO BORUDE AND OTHERS
VERSUS
SHRI DATTATRAY ANANDRAO BORUDE**

...

Mr.M.S. Kulkarni, Advocate for the Applicant
Nos.A/1A, 1B, 1D/i, 1D/ii, 4A, 4B, 4D/i,
4D/ii.

Mrs.C.S. Deshmukh and mr.Y.G. Gujrathi,
Advocates for Respondent.

...

**CORAM: V.L. ACHLIYA,J.
DATE : 21.06.2019**

ORAL ORDER:

The present applications are filed
by the legal heirs of cross-objectionists
i.e. deceased Respondent Nos.4, 5 and 1
respectively.

2. By these applications, the
applicants have urged to condone the delay in
filing the applications for setting aside the
abatement and to bring them on record.

3. In brief it is the say of the
applicants that the respondent has filed the

Second Appeal as against the judgment and decree dated 4th August, 1986 passed by the learned District Judge, Dhule in Civil Appeal No.331/1982, thereby setting aside the judgment and decree dated 31st January, 1981 passed by the learned Joint Civil Judge, Senior Division, Dhule in Special Civil Suit No.1/1973. Appeal was originally presented at Principal Seat of High Court at Bombay. The Cross Objections were filed to said appeal by the original objectionists i.e. deceased Respondent Nos.4, 5 and 1 respectively. Although the cross objections were filed to appeal filed by respondent/appellant, same were not separately numbered. Subsequent to establishment of Bench of High Court of Bombay at Aurangabad, the Appeal Cross-Objections were came to be transferred to this Court. Since the applicants were unaware of pendency of the proceedings, they could not take necessary steps to bring themselves on record as the heirs of cross-objectionists. In this background, learned counsel submits that the delay caused in filing these applications was not deliberate and intentional and therefore, same deserves to be condoned.

4. On the other hand, learned counsel for respondent submits that the explanation as put-forth delay is not sufficient to condone the delay of more than 6000 days and prayed for dismissal of the applications.

5. Considering the submissions advanced in the light of unchallenged pleadings made in the applications and delay being sufficiently explained, I am inclined to allow the applications. Accordingly, the applications are allowed in terms of prayer clauses "A" (i), (ii), (iii) and (iv) in respective applications. Necessary substitution be carried out within two weeks from today. Amended copy of the Cross Objections be furnished to the Advocate representing the respondent. Office objection, if any, be removed within two weeks from today.

6. The applications are disposed of in above terms.

[V.L. ACHLIYA]
JUDGE