

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

918 CIVIL APPLICATION NO. 06742 OF 2013 IN SA/1628/2005

MOHD ANEES MOHD IBRAHIM
VERSUS
KHALED BEGUM HABIB KHAN

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Advocate for Applicants : Ms. A.N. Ansari h/f. Mrs. C.E. Gaikwad
Respondent served (Absent).

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 27TH MARCH 2019

ORAL ORDER :

01. Present application has been filed for bringing the legal representatives of the deceased appellant on record. The delay of 1440 days is also sought to be condoned in filing the present application.

02. The applicants contend that the appellant expired on 02-03-2009. The applicants are the legal representatives. The widow of the appellant is illiterate and had no knowledge about pendency of the appeal. The appeal was admitted and pending for final hearing and, therefore, there was no communication between the Advocate and the appellant.

Thereafter, when the matter was on board for submitting paper-book, then the Advocate had informed the applicants. Then the legal representatives contacted the Advocate and gave information about death of the appellant. The delay is unintentional but it was because of lack of knowledge of the applicants and, therefore, they have prayed for condonation of delay.

03. The respondent was served but none appeared. Therefore, whatever reason that has been given by the applicants, for getting the delay condoned, has gone unchallenged on record. The second appeal was admitted in 2005 itself and it was waiting for its turn. It appears that it was listed on 27-11-2012 and thereafter the fact of death of appellant came to the knowledge of the Advocate for the appellant. As regards second appeal is concerned, it is not expected that the appellant should be in continuous contact with the Advocate after it is admitted. Therefore, the reason that has been given appears to be sufficient and reasonable.

04. Hence, the following order :-

(a) The civil application is hereby allowed.

(b) The delay is condoned. Legal representatives of the deceased appellant are permitted to be brought on

record. Necessary amendment to that effect be carried out within 14 days from the date of this order

(Smt. Vibha Kankanwadi)
JUDGE

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