

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

**CIVIL APPLICATION 10374 OF 2018
IN SECOND APPEAL NO. 1139 OF 2004**

Daivashalabai Bhanudas Padile ...Applicant

Versus

Govind Limbaji Gaikwad (Died through ...Respondents
LRs) & Anr.

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Mr. N. S. Shah, Advocate H/F Mr. S. V. Natu, Advocate for
Applicant.

Mr. J. R. Patil, Advocate for Respondent No. 1/1 to 1/5.

Mr. K. N. Lokhande, Advocate for Respondent No. 2.

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 11-01-2019.

ORAL ORDER :

01. Present application has been filed for bringing the legal representatives of respondent No. 1 on record, who died on 7.10.2017. The appeal is admitted on 9.9.2004. It is stated that thereafter the applicant was not in contact, but, she was out side. Respondent No. 1 was residing with his son and only sometimes used to come in village. Therefore, the applicant could not get the information about death of respondent No. 1 in time. She came to know about his death in April 2018. Some time was

taken to collect the information in respect of legal heirs left by respondent No. 1. The delay of 150 days has been caused. However, it is not deliberate. On these grounds, it is prayed that the delay be condoned.

02. The respondent No. 1 has filed purshis regarding death of respondent No. 1 on 9.7.2018 i.e. subsequent to the filing of the application.

03. Heard both the sides. It is to be noted that the purshis about the death of respondent No. 1 has been filed after the presentation of the application. There is substance in the say of the applicant that since she was not aware about the death of respondent No. 1 immediately she could not bring the legal heirs on record. There is no reason to disbelieve that she came to know about his death in April. The delay being unintentional deserves to be condoned. Hence, it is condoned.

04. Hence, following order;

ORDER

(i) The application stands allowed.

(ii) The legal representatives of deceased be brought on record within 15 days. The learned Advocate appearing for the appellant makes a statement that he would prepare the paper book,

if not prepared earlier. Under that circumstance, the printing of paper book would be dispensed with. Appellant to submit the paper book on or before 18.2.2019.

[SMT. VIBHA KANKANWADI]

JUDGE

Dahibhate/-