

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

946 CIVIL APPLICATION NO.7169 OF 2019
IN
SA/106/2013

MAHADU MANIKA PANCHAL
VERSUS
THE COMMISSIONER, NANDED-WAGHALA MUNICIPAL
CORP.

...
Mr. Shaikh Mujtaba Gulam Mustafa,
Advocate for applicant.

Mr. S.P. Urgunde, Advocate for Respondent.

...
CORAM: V.L.ACHLIYA, J.

DATE : 15.11.2019

...

ORAL ORDER:

1. The applicant/appellant has moved this application to bring L.Rs. of deceased appellant on record for the reasons set out in detail in the application.

2. Heard learned counsel for applicant and respondent.

3. It is contended that the appeal was presented in the year 2013. Subsequent to filing the appeal, the appellant died. The

Advocate representing the appellant was not intimated about the death. On 04/06/2019 the applicants approached the Advocate and enquired about the matter. At that time he came to know about the death of original appellant and advised to file application. Accordingly, the application has been presented. It is submitted that the delay caused in filing application was not deliberate and intentional due to knowledge about the death of appellant and communication gap between applicant and Advocate the delay has been caused. It is further submitted that in case delay is not condoned, there is every likelihood that meritorious matter may be rejected on technical reasons.

4. On the other hand, learned counsel for respondent opposed the application with contention that the application can not be treated as sufficient cause. It is submitted that the reasons assigned are false and concocted.

5. On due consideration of the submissions advanced in the light of unchallenged, uncontroverted pleadings made in the

application, I am of the view the delay deserves to be condoned. The delay caused in filing application appears not to be intentional and deliberate. The appellant has died during the pendency of appeal. The appeal was pending for admission. Due to communication gap, the steps could not be taken within time. I am, therefore, inclined to allow the application.

Hence, the following order.

ORDER

- [i] The application is allowed in terms of prayer clause 'B' and 'C'.
- [ii] Necessary amendment/substitution be carried out within two weeks. After carrying out amendment/substitution and removal of office objections, appeal be placed for admission on 09/12/2019.

6. S.O. 09/12/2019.

**[V.L.ACHLIYA]
JUDGE**

KNP