

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

5 CIVIL APPLICATION NO.10031 OF 2018
IN SA/52/1993

TUKARAM SOPAN WANGWAD
VERSUS
GOPAL DIGAMBAR KOTALWAR AND OTHERS

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Advocate for Applicant : Mrs. Deshmukh Charuta Sunil
Advocate for Respondent No.1 : Mr. C. G. Solshe
Advocate for Respondents No.3 and 4 : Mr. V. C. Solshe
Advocate for respondent No.3E : Mr. S. P. Urgunde.

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CORAM : SMT.VIBHA KANKANWADI, J.
DATE : 04-01-2019.

PER COURT :

1. Present application has been filed for bringing the legal representatives of deceased respondent No.3 on record. There is delay of about 2999 days.
2. Heard Mrs. Deshmukh Charuta Sunil, learned advocate for applicant, Mr. C. G. Solshe, learned advocate for respondent No.1, Mr. V. C. Solshe, learned advocate for respondents No.3 and 4, and Mr. S. P. Urgunde, learned advocate for respondent No.3E.
3. It has been submitted on behalf of the applicant / appellant that, the second appeal was on board on 05-02-2018 and during the hearing it was informed by the learned advocate appearing for the respondents No.3. and 4 that the respondent No.3 has expired. He sought time to take instructions and supply the details about the legal heirs.

Thereafter the matter was listed on 06-04-2018. On that day the learned advocate appearing for the respondent No.3 showed his inability to furnish the details and therefore the time was sought to take instructions by the learned advocate appearing for the applicant. It is stated that, after that, the information in respect of the legal representatives left by respondent No.3 has been collected. Though the delay appears to be of much days yet it is not after the compliance by the learned advocate for the applicant. Only intimation about the death was given but no details were supplied.

4. Taking into consideration all those details which have been mentioned in para Nos.3 to 5, the delay is condoned. The right to sue survives against the respondent No.3 and therefore the application deserves to be allowed. Hence, following the order.

ORDER

- 1) Application is hereby allowed.
- 2) The legal representatives of respondent No. 3 be brought on record of the second appeal within two (2) weeks from today.
- 3) Put the second appeal for final hearing on 31-01-2019.

**(SMT. VIBHA KANKANWADI)
JUDGE**

vjg/-.