

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

**CIVIL APPLICATION NO.14829 OF 2017
IN
WRIT PETITION NO.5155 OF 2002**

Bhikubai w/o Nathu Patil

Died through LRs as per will

Ashok Nathu Patil

Applicant

Versus

Kum. Maya d/o Amrutrao Sawant Patil

Respondent

Mr.R.R. Mantri advocate for the applicant (A)

Mr.A.G.Talhar advocate for Respondent

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CORAM : **RAVINDRA V. GHUGE, JUDGE**

(Date : 15th March, 2019)

PER COURT :-

1 I have heard the learned Advocates for the respective sides.

2 The applicant Ashok is a biological son of the deceased Bhikubai. It is stated that Bhikubai had several sons and daughters. The immovable property involved in the litigation before this Court is, the share that has come to the applicant Ashok and therefore, he desires to prosecute the present proceedings. Bhikubai died on 3.8.2005. Writ petition No.5155/2002 was admitted by this Court on 5.12.2002 and by an interim order, relief in terms of prayer clause 'C' was also granted.

3 It is stated that Bhikubai bequeathed the said land to her

son Ashok by a will-deed. Since Ashok was not aware of the present proceedings, the delay has been caused. If the application is not allowed, an irreparable loss would be caused to Ashok since, he would be deprived of immovable property which is an agricultural land.

4 The learned Advocate for the respondent has strenuously opposed the application. It is submitted that the reasons cited are not satisfactory. The delay is practically of 11 years and 251 days. The application may be rejected with heavy costs. It is submitted in the alternative, that if costs are imposed, a portion of the costs be donated for the treatment of poor patients.

5 Having considered the fact situation recorded as above and keeping in view that, the petition filed by the deceased Bhikubai was admitted and interim relief was granted, it is obvious that, if this application for bringing on records the LRs is not allowed, an irreparable loss would be caused to the applicant. The delay caused can be condoned by imposing costs.

6 In view of above, the Civil Application is allowed.

7 The delay of 11 years and 251 days caused is condoned subject to the applicants depositing costs of Rs.5,000/- in this Court on or before 5.4.2019.

8 The respondent would be at liberty to withdraw Rs.4,000/- and the Nazir section shall transfer Rs.1,000/- for the treatment

of poor patients to the Dean, Government Medical College & Hospital, Aurangabad, Dengi Samiti, through the Medical Officer, High Court Dispensary, Aurangabad.

9 After the costs are deposited, the Writ Petition shall be restored to the original position, along with interim relief and the order of abatement shall stand set aside.

10 The writ petition shall be listed for final hearing on 25.4.2019.

11 If the direction of depositing costs is not complied-with, this order shall stand recalled on 6.4.2019 and the Civil Application would stand rejected without reference to the Court.

**(RAVINDRA V. GHUGE),
JUDGE**