

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

**939 CIVIL APPLICATION NO.9113 OF 2019
IN FA/26/2005**

**THE STATE OF MAHARASHTRA
VERSUS
VIRAPPA BHIMRAO UDATE (DIED) THR LRS
MALLIKARJUN AND ORS**

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**Mr.S.W.Mundhe, A.G.P. for applicant/State
Mr.V.D. Gunale, Advocate for respondents.**

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**CORAM: V.L. ACHLIYA, J.
DATE : 06.09.2019**

ORAL ORDER:

This application is filed to bring on record the legal heirs of deceased respondent for the reasons set out in detail in the application.

2. Heard learned A.G.P. for the applicant/appellant and the counsel representing the legal heirs of deceased respondent.

3. In brief, it is the contention of learned A.G.P. for the applicant/appellant

that the respondent died during pendency of appeal. Since the appeal was not on board, the appellant was unaware as to the death of deceased respondent. It is pointed out that in connected appeal filed by the deceased respondent challenging the same judgment and order, the legal heirs are brought on record. After receipt of knowledge as to the death of deceased respondent, the application has been filed. In this background, learned counsel submits that the delay caused in filing the application was not deliberate and intentional and deserves to be condoned.

4. Learned counsel for the respondents submits that the respondents have no objection to allow the application.

5. On due consideration of the reasons assigned and cause of action survives to prosecute the appeal against the respondent, the application is allowed in terms of prayer clause "B". The applicant is permitted to bring on record the legal heirs of deceased respondent. Necessary amendment/substitution be carried out within two weeks from today.

6. Civil Application is disposed of in above terms.

7. List the appeal with connected appeal for hearing on 4th November, 2019.

[V.L. ACHLIYA]
JUDGE

SGA