IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 13883 OF 2017
WITH SECOND APPEAL NO. 720 OF 2004

Varsha Shantilal Rana since deceased through LR's and ORs. ...Applicants

Versus

Changdeo Ramchandra Kadu & Ors. ...Respondents

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Mr. G. A. Kulkarni & Mr. Amol Joshi, Advocates H/F Mr. R. S. Deshmukh, Advocate for Applicants.
Mr. N. D. Sonawane and Mr. V. D. Hon, Advocates for Respondents No. 1 to 3.
Mr. B. R. Kedar & Mr. V. M. Jaware, Advocates for Respondent No. 4A.

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 07-01-2019.

ORAL ORDER :

01. The present application has been filed to bring legal representatives of original respondent No. 1-B on record. Respondent No. 1-B died on 5.2.2015. He is survived by wife and two children. The suit was filed for declaration and injunction wherein the legal representatives of respondent No. 1-B was the plaintiff. The said suit came to be dismissed. Thereafter, the appeal was preferred which came to be partly allowed.

Thereafter, the original defendants No. 2 to 4 have filed the present second appeal. The appeal has been admitted. Under such circumstance, the right to sue survives as against the present applicants-legal representatives of respondent No. 1-B. No doubt, there is delay of about 809 days in preferring this application, however, it is to be noted that the application has been filed by the respondents. Under such circumstance, it can not be stated that there is any delay. The delay would have been for the appellants. They have not taken steps. It was stated that no intimation was given regarding death of respondent No. 1-B and therefore, the steps have not been taken. Under such circumstance, it would be in the interest of parties and in the interest of justice to condone the delay and allow the legal representatives of respondent No. 1-B to be taken on record.

02. Hence, following order;

ORDER

(i) The application is hereby allowed.

(ii) The legal representatives of respondent No. 1-B be brought on record within two weeks from today. Stand over to 21.1.2019.

(iii) Applicant to carry out the necessary

amendment within aforesaid period.

[SMT. VIBHA KANKANWADI]

JUDGE

Dahibhate/-