

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

**CIVIL APPLICATION NO. 8413 OF 2018
IN SECOND APPEAL NO. 394 OF 1996**

Tolan Saheb Mohd. Ismail Saheb Bagwan ...Applicants
(Died through Lrs)

Versus

Abdul Gafoor Mohd. Ismail Saheb, ...Respondents
Hangarkekar (Died) & Ors.

.....

Mr. Sabnis, Advocate H/F Mr. N. B. Jadhav, Advocate for
Applicants.

Mr. D. R. Bhadekar, Advocate for Respondents No. 1 to 3.

Mr. Prashant Deshmukh, Advocate for Respondent No. 5.

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CORAM : **SMT. VIBHA KANKANWADI, J.**

DATE : **17-01-2019.**

ORAL ORDER :

01. Present application has been filed to bring the
LRs of the respondents No. 1 and 2 on record. There is
delay of 215 and 3625 days' in bringing the LRs of
respective respondents. It is stated that except
applicant No. 1A, all the other applicants are illiterate.
They were not aware about the proceeding. It is also
stated that the learned Advocate, who was representing the
applicants also died during the pendency of the appeal and
therefore, there was a communication gap. The second

appeal is already admitted. Substantial questions of law are involved and therefore, it is stated that the delay being unintentional be condoned.

02. Notices were duly served to the proposed legal representatives of respondents No. 1 and 2. They have not appeared. Taking into consideration the fact that whatever averments are made in the application are now uncontested. Though, there appeared to be some lapse on the part of the applicant, since the appeal is admitted, after demonstration of the substantial questions of law, liberal approach is required.

03. Hence, following order;

ORDER

(i)The application is allowed.

(ii)Delay is hereby condoned.

(iii)The LRs of respondents No. 1 and 2 be brought on record.

(iv)Amendment to that effect be carried out within 15 days.

(v)Stand over to 31.1.2019.

[SMT. VIBHA KANKANWADI]

JUDGE

Dahibhate/-