

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

923 CIVIL APPLICATION NO.12001 OF 2019
IN SA/97/1999 WITH CA/12002/2019
IN SA/97/1999 WITH CA/12003/2019
IN SA/97/1999

SHIVRAM DADA BORSE THRO. GPA
MANJARAM AND ANOTHER
VERSUS
UTTAM DADA BORSE DIED LRS. INDUBAI
UTTAM BORSE AND OTHER

...
Mr. B.A.Darak, Advocate for applicants.
Mr. M.M.Joshi, Advocate for R – 1 & 2.

...
CORAM: V.L. ACHLIYA,J.
DATE : 04/12/2019
...

ORAL ORDER :

1. All these applications are brought to bring L.Rs. of deceased respondent No. 1 [in C.A. 12001 of 2019], deceased respondent No. 2 [in C.A. 12002 of 2019] and deceased respondent No. 1-D [in C.A. 12003 of 2019] on record with prayer for condonation of delay in filing applications.
2. Heard learned counsel for applicants and respondents.
3. In brief, it is the contention of learned counsel for applicants that Appeal was filed in the year 1999.

Thereafter, the Appeal was not on board. The appellants were not expected to be in regular touch of Advocate. The fact regarding death of respondents was not known to appellants. On receipt of knowledge about the death of respondents, the appellants have moved these applications for setting aside abatement and to bring L.Rs. of deceased respondents on record.

4. Learned counsel for respondents opposed the applications with contention that there is no satisfactory explanation as to delay caused in filing applications to bring L.Rs. on record.

5. On due consideration of submissions advanced, I am of the view the applications deserve to be allowed. Once the Appeal is admitted, the party did not remain in regular touch with Advocate. In that view, there is possibility of communication gap between applicants and their Advocate. As such, the delay deserves to be condoned. Accordingly, the applications are allowed in terms of prayer clause 'B', 'C' and 'D'.

6. Necessary substitution be carried out within two weeks and amended copy of Appeal memo be served to the other side well in advance.

7. List the Appeal for final hearing in the week commencing from 20/01/2020.

[V.L.ACHLIYA]
JUDGE

KNP