

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

922 CIVIL APPLICATION NO.12492 OF 2018
IN SECOND APPEAL STAMP NO.15107 OF 2018

NAGNATH BALI SIDDHAGANESH AND ANOTHER
VERSUS
DADARAO APPARAO THOMBRE (DIED) LRS PAPU &
OTHERS

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Advocate for Applicants : Mr.B.R.Kedar
Advocate for respondent Nos.1 to 4 :
Mr.V.K.Suryawanshi & A.T.Ghute.
Advocate for respondent Nos.2 and 3 :
Mr.P.M.Nalegaonkar

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CORAM : V.L.ACHLIYA, J.
DATE : 12.07.2019

PER COURT:

1] This Application is filed for setting aside the order of abatement of sole respondent by condoning the delay in filing application.

2] Heard learned counsel for the applicants and the proposed L.Rs. of the deceased respondents.

3] In brief, it is the contention of the learned counsel for the applicants that

the applicants were unaware about the death of sole respondent. The respondent died after matter was reserved for judgment. Only after filing of the Appeal and the notices were issued by this Court, it was revealed that the sole respondent was died on 04.04.2017. In this background, learned counsel for the applicants submits that there was delay in filing the application for taking steps in the matter.

4] Learned counsel for the respondent submits that the appeal was filed after receipt of the notice of execution proceedings filed by respondent and reasons assigned for condonation of delay are false and concocted.

5] Considering the reasons assigned in the application and the submissions advanced in the light of the over all facts of the case, I am of the view that the delay caused

in taking steps cannot be termed as willful and deliberate. In that view the application deserves to be allowed. Accordingly the Application is allowed in terms of prayer clauses B and C.

6] Necessary amendment be carried out within two weeks and copy be furnished to the Advocate for the respondent well in advance.

[V.L.ACHLIYA]
JUDGE

DDC