

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

**CIVIL APPLICATION NO. 14507 OF 2018  
IN SECOND APPEAL NO. 23 OF 2015**

Jamilabi Mohamad Farhim (Died through ...Applicants  
LRs) & Anr.

Versus

Kayyum Ahemad Siraj Ahemad & Ors. ...Respondents

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Mr. A. D. Sonar, Advocate for Applicants.

Mr. M. M. Jadhav, Advocate H/F Mr. S. P. Shah, Advocate  
for Respondent No. 1 to 4.

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

**DATE : 23-01-2019.**

**ORAL ORDER :**

01. Present application has been filed for bringing the LRs of appellant No. 1 on record, who expired on 21.10.2017. However, there is stated to be delay of 363 days. It is stated that the delay has been caused as the fact of death of appellant No. 1 was not communicated to the Advocate. It is stated that even the appellant No. 2 is old, who was mainly looking after the litigation. The delay is unintentional and therefore, they have prayed for condonation of delay.

02. The application has been objected by the

respondents on the ground that the delay of each and every day has not been explained, contrary statements are made in the application.

03. It is to be noted that it appears that earlier the matter was heard. But, thereafter it is de-reserved. This appears to have taken place after the death of the appellant No. 1. However, it appears that till that date the fact of death of appellant No. 1 was not informed to the Advocate. The appellant No. 2 is 69 years old person. Though, it is stated that his occupation is business, it is stated that due to his old age he was not in contact with the Advocate. Taking into consideration the fact that the applicants are coming from rural area from Dhule District, they might not be in constant contact with their Advocate at Aurangabad. Under such circumstance, liberal approach is required to be taken. At the same time, the inconvenience caused to the respondents is required to be compensated in terms of money.

04. Hence, following order;

**ORDER**

(i) Application is allowed.

(ii) The delay caused in bringing the legal representatives of appellant No. 1 on record is

hereby condoned subject to deposit of cost of Rs. 4,000/- within 15 days from the date of this order. Upon the deposit of the said amount it be distributed equally to the respondents No. 1 to 4. The necessary amendment be carried out after the payment is made within the said stipulated period.

**[SMT. VIBHA KANKANWADI]**

**JUDGE**

*Dahibhate/-*