

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

940 CIVIL APPLICATION NO.142 OF 2018
IN
SA/119/1994

PRAMILABAI SADASHIV JAGTAP
VERSUS
GANPAT MURLIDHAR BANKAR (DECEASED) LRS
KRISHNABAI (DECEASED) AND OTHERS

...
Mr.P.P.Dhorde, Advocate for
applicant.

...
CORAM: V.L.ACHLIYA, J.
DATE : 15.11.2019

...

ORAL ORDER:

1. This application is taken out to bring the L.Rs. of respondent No. 1-b on record for the reasons set out in detail in the application.
2. Heard learned counsel for applicant. The respondents though served, are absent.
3. In brief, it is the contention of learned counsel for applicant that applicant is illiterate old aged woman residing in village. She is not aware about the

procedure to be adopted in the event of death of party to the proceeding. There is no one in her family to assist her. She has lost her 40 years old son, who died on account of massive heart-attack. After the death of her son in the year 2012, there was no one in her family to provide assistance. Due to this reason, the application could not be moved in time to bring L.Rs. of deceased respondent No. 1-b. In the process, there was delay of 2162 days caused in filing application. It is contended that the delay in filing appeal is not intentional and deliberate. The appeal was admitted in the year 1994. Since the matters were not on board, the applicant lost track with her Advocate. So also, due to illiteracy, ill health and loss of her son, the applicant could not contact her Advocate and take steps. In this background, learned counsel urged to condone the delay.

4. On due consideration of submissions advanced in the light of unchallenged, uncontroverted pleadings, I am of the view the application deserves to be allowed. The applicant is old aged illeterate lady residing in a remote village. She lost her

son in the year 2012. There is no one in her family to provide assistance. During pendency of appeal, respondent No. 1-b died. Since the appeal was not on board, it was not necessary for applicant to maintain contact with her Advocate. In that view, the application deserves to be allowed. Accordingly, the application is allowed in terms of prayer clauses 'B' and 'C'. Necessary amendment/substitution be carried out within two weeks from the date of this order. After carrying out necessary amendment/substitution, notices be issued to the L.Rs. of deceased respondent No. 1-b in C.A. No. 176 of 2017 in S.A. No. 118 of 1994 and C.A. No. 177 of 2017 in S.A. No. 119 of 1994, returnable on 13/12/2019.

5. S.O. 13/12/2019.

[V.L.ACHLIYA]
JUDGE

KNP