

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

Civil Application No. 02064 of 2019
(In Second Appeal No. 01126 of 2005)

District : Beed

Dattatraya s/o. Ramchandra Mahajan,
deceased through his L.Rs.,
Kumodini w/o. Dattatraya Mahajan
& others.

.. Applicants.

versus

Rangnath s/o. Vithalrao Mahajan,
deceased through his L.Rs.,
Umakant Rangnath Mahajan
& others.

.. Respondents.

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*Mr. Mobin H. Shaikh, Advocate, holding for
Mr. V.R. Dhorde, Advocate, for the appellant.*

*Mr. B.T. Bodkhe, Advocate, for respondents
no.1A to 2E, 3A, 3B, 4A to 4D, 5A to 5C, 5E,
8, 9, 10A to 10E, 12, 13A/1 to 13A/4, 13E, 14,
17 & 18.*

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 05TH FEBRUARY 2019

ORAL ORDER :

01. Present application has been filed to bring the legal representatives of appellant no.1E on record. She expired on 09-12-2012.

02. It is submitted that by another Civil

Application No. 14340 of 2018, the applicants sought fixing of the Second Appeal for final hearing. It was allowed. The applicants were directed to supply private paper-book. That intimation was given by the Advocate to the applicants and thereafter upon enquiry, Advocate came to know that applicant no.1E has expired. Thereafter death certificate was collected and then the application has been filed. There is delay of 2119 days. It is stated that the applicants being rustic villagers, were not in contact with the Advocate after appeal was admitted. The delay is unintentional and, therefore, they have prayed for condoning the said delay and bringing the legal representatives of appellant no.1E on record.

03. The application has been strongly opposed on the ground that there is huge inordinate delay which has not been explained properly by the applicants.

04. It is to be noted, that the second appeal was admitted in 2012. Thereafter, it appears that only in 2018, applicants had moved this Court for fixing the matter for final hearing and thereafter things have moved. Taking into consideration the fact that the applicants are rustic villagers, may not be knowing the legal requirement. Under such circumstance, reasonable and just ground has been given to condone the delay. However, at the same time, the inconvenience that has been caused to

respondents is required to be compensated in terms of money.

05. Hence, the following order :-

The application is allowed. The delay caused in bringing legal representatives of appellant no.1E is hereby condoned subject to deposit of costs of Rs. 5,000/- [Rupees five thousand] with the Registry of this Court within 15 days from the date of this order. After the amount is deposited, it be disbursed to the respondents. Necessary amendment be carried out within 15 days.

(Smt. Vibha Kankanwadi)
JUDGE

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