

*JPP*

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION***

***CIVIL APPLICATION NO. 1562 OF 2018  
IN  
SECOND APPEAL NO. 151 OF 2013***

Anusaya Ramchandra Shirke (since deceased)  
through her legal heirs & Ors. ... Applicants/Appellants

V/s.

Sarabai Vitthal Shirke and Ors. ... Respondents

Mr. Sandip Babar for the Applicants/Appellants.  
None for the Respondents.

***CORAM : N.M. Jamdar, J.***

***DATE : 26 July, 2019.***

**P.C. :-**

The Civil Application is filed for bringing the heirs of sole Appellant on record and to set aside abatement. There is a hand written insertion in the prayer clause including prayer clause (b) and carrying out amendment praying for condonation of delay of 102 days.

2. A reply is filed by the Respondents contending that there is no reason given in the application for condonation of delay. The contention raised in the reply is correct. For setting aside an abatement and for condonation of delay there should be an

explanation on affidavit in the application. The learned Counsel for the Applicants submits that there is a good explanation why delay occurred, however due to inadvertence the paragraph giving explanation for delay has remained to be incorporated, when the amendment for prayer was incorporated. The learned Counsel for the Applicants prays that he will file a fresh application and liberty may be given to withdraw the present one.

3. Only because the litigant should not suffer because of the lapse on Advocate's part, the Civil Application is disposed of as withdrawn with the liberty as prayed for.

*(N.M. Jamdar, J.)*