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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.137 OF 2019
IN
SECOND APPEAL (ST) NO.4005 OF 2017
WITH
CIVIL APPLICATION NO.139 OF 2019
WITH
CIVIL APPLICATION NO.140 OF 2019
IN
SECOND APPEAL NO.199 OF 2019

Shri. Ramrao Shamrao Kamble and Ors.

... Applicants

Vs.

Shri. Vinayak Narayan Mali and Ors.

... Respondents

Mr. Ajay Laxman Bhise for the Applicants.

Mr. Shubham Kanade i/b. Mr. Umesh Mankapure for the Respondent
Nos.1 to 3, 7, 11 and 12.

CORAM : SMT. SADHANA S. JADHAV, J.

DATE : 11th DECEMBER 2019.

P.C.:

1 This is an application for condonation of delay in bringing the legal heirs of Respondent No.6 on record. The delay is of 3 years and 196 days. Respondent No.6 has expired on 26th December 2014 i.e. during the pendency of the first appeal. However, it is the submission of the learned counsel for the appellant that the appellant was never informed about the

demise of the Respondent No.6 and the same has caused delay. It is also submitted that upon failure to bring the said legal heirs on record the second appeal may be held to be not maintainable on the ground of non-joinder of necessary parties in the second appeal and therefore, it is prayed that the delay be condoned. In any case, the Respondent Nos.1 to 7 had contended that suit properties are in Inam Vatan lands under Class 6B and they are in possession and occupation of the said lands for more than 75 years as tenants and that they continue to be in possession and therefore, no serious prejudice would be caused to the respondents. However, the learned counsel for the respondents submits that it was incumbent upon the appellant to implead the legal heirs on record at the time of filing the appeal and that the delay should not be condoned. However, taking into consideration the recitals of paragraph nos.4 and 5 of the application, the delay deserves to be condoned in the interest of justice and hence, the application is allowed in terms of prayer clause (a) and stands disposed of.

(SMT. SADHANA S. JADHAV, J.)