

DDR

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

**CIVIL APPLICATION NO. 301 OF 2018
IN
SECOND APPEAL NO. 198 OF 1998**

Shridhar Bidesh Gosavi (since deceased)
by his heirs and LRs 1a. Narayan Shridhar
Gosavi & ors.

..Applicants

vs.

Razak Esmail Chaugule (since deceased)
by his heirs and LRs 1a. Najeer Razak
Chougule & ors.

..Respondents

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Shri G.H. Keluskar for applicants.

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CORAM : M.S.KARNIK, J.

DATE : 12th JULY, 2019

P.C. :

This is an application for bringing the legal heirs of appellant No.2 on record. The appellant No.2 died on 13th September, 2006. There is a delay of 11 years in filing the application for bringing on record the heirs of appellant No.2 and also for setting aside the abatement. The delay in filing the application has been explained in paragraphs 4 and 5 of the

application. Though there is much delay in filing the application, in my opinion, the appellant's right to contest the Appeal should not be foreclosed only on the ground that there is a delay in bringing the legal heirs on record. The appellant should be given an opportunity to contest the Appeal on merits.

2. The delay in filing the application as well as for setting aside the abatement is condoned in the interest of justice.

3. The application is allowed in terms of prayer clauses (a) to (d).

4. Consequential amendments to be carried out within a period of 2 weeks from today.

5. The Civil Application is disposed of.

(M.S.KARNIK, J.)