

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.1732/2019
IN
FIRST APPEAL NO.326/2005

Dr. Ahmed Ibrahim Khatri & Ors... Applicants./appellant.
Vs.
Mumbai Municipal Corporation ... Respondent.
Of Gr.Mumbai.

Mr.Madhusudan B. Joshi, advocate for applicant.
Ms. Sheetal Mane for MCGM.

CORAM : K.K.TATED, J.
DATED : JUNE 12, 2019.

P.C.

Heard learned counsel for parties.

2. By this civil application, the applicant is seeking permission to bring legal heirs on record, of deceased/original appellant in First Appeal no.326/2005.

3. Learned advocate for applicant submits that the sole appellant expired on 6.11.2017. He submits that for want of knowledge about pendency of present appeal before this Court, there is delay on the part of applicant to file civil application in time. He submits that they have good chance of success in the present matter. He submits that in the interest of justice, this Court be pleased to condone the delay in filing civil application and permit the applicant to bring legal heirs of the deceased/sole appellant, on record, in First Appeal

no.326/2005. He submits that if delay is not condoned, applicants will suffer irreparable loss.

4. On the other hand, learned counsel Ms. Sheetal Mane, for respondent/claimant opposed the present civil application. She submits that applicant has not shown sufficient cause for condonation of inordinate delay.

5. Considering the submissions, made by learned advocate for applicant and averments made in application, I am satisfied that applicant has made out a case for allowing the application.

6. Hence, the following order.

- a) Delay in filing civil application is condoned.
- b) Abatement is set aside.
- c) Applicant is permitted to bring legal heirs of deceased/sole appellant on record in First Appeal No.326/2005 on or before 05.07.2019 failing which civil application shall stand dismissed without referring back to court.
- d) If amendment is carried out within time, applicant is directed to serve amended copy of appeal memo alongwith annexures, on advocate of respondent immediately thereafter.
- e) Civil application disposed of .
- f) No order as to costs.

(K.K.TATED, J.)

