

Amk

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

**CIVIL APPLICATION NO. 1558 OF 2014
IN
FIRST APPEAL NO. 419 OF 2011
WITH
CIVIL APPLICATION NO. 231 OF 2015
IN
CROSS-OBJECTION NO. 19294 OF 2015**

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. Yogesh Dabake, AGP for the Applicant.

Mr. Ashutosh B. Patil I/b N. V. Bandiwadekar for Respondent Nos.1, 2A to 2D, 3 to 5.

CORAM : K. K. TATED, J.
DATE : 28th MARCH, 2019.

P. C. :

1. None for the Applicant.
2. When the matter called out, no one appeared on behalf of the Applicant. Hence, dismissed for non prosecution.
3. In second sessions, learned AGP Shri Dabake mentioned this matter.
4. Considering the submission made by learned AGP earlier order is recalled. Matter is restored to file for hearing on its own merits.
5. By this Civil Application, the Applicant is seeking permission to bring legal heirs on record of deceased Respondent No.2-Bapu Kashiram

Pawar who died on 21.01.2013. Learned AGP submits that for want of knowledge it remained to prefer application within time. Learned Counsel Shri Patil submits that he received instructions to appear on behalf of legal heirs of Respondent No.2. He submits that they have no objection if the Civil Application is allowed.

6. Considering the submission made by learned AGP, averments in the Civil Application and learned Counsel for Respondents have no objection, I satisfied that the Applicant has made out case for following order:

(i) Civil Application is allowed in terms of prayer clauses (b), (c) and (d) which read thus:

(b) this Hon'ble Court be pleased to condone the delay of 303 days in preferring above mentioned Civil Application for bringing legal heirs on record of deceased Respondent No.2.

(c) that this Hon'ble Court be pleased to set aside the abatement of the above mentioned matter.

(d) that this Hon'ble Court be pleased to allow the applicant to bring legal heirs on record of deceased Respondent No.2, as stated hereinabove.

(ii) Amendment to be carried out on or before 30.04.2019, failing which Civil Application shall stand dismissed without referring back to this Court.

(iii) If amendment is carried out within stipulated time as above, the Applicant is permitted to serve amended copy of the First Appeal

No. 419 of 2011 on the Advocate of legal heirs of Respondent No.2.

(iv) Learned Counsel Shri Patil for legal heirs of Respondent No.2 waives service in First Appeal No. 419 of 2011.

(v) Civil Application stands disposed of accordingly.

(vi) No order as to costs.

[K. K. TATED, J.]