

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.333 OF 2016
IN
CIVIL REVISION APPLICATION NO.1140 OF 2012**

Shrikant Dattatraya Kharadkar and Ors. ... Applicants

Versus

Edna Sushila Samuel since deceased

1-a] Mr.Murtaza Tayyebali Chherewala .. Respondent

Mr.S.C. Wakankar for the Applicants.

None for the Respondent.

CORAM : K.K. TATED, J.

DATE : 10 JANUARY 2019.

P.C:-

. Heard learned Counsel for the applicants.

2. By this Civil Application, applicant is seeking permission to bring the legal heirs on record of deceased Sole respondent who expired on 04.01.2014. The learned Counsel for the applicant submits that they learnt about the death of Sole respondent when they received letter dated 02.09.2014 (Exhibit-A to the application) from the respondent's advocate. Thereafter, they immediately preferred the present Civil Application within

four weeks.

3. Learned Counsel for the applicants submits that for want of knowledge, it remain on their part to file Civil Application within time. He submits that in the interest of justice this Hon'ble Court be pleased to condone the delay in filing Civil Application. He submits that if delay is not condoned irreparable loss cause to them. He submits that they have good chance of success in the present proceedings.

4. Considering the submissions made by learned Counsel for the applicants, avernments made in Civil Application, I am satisfied that the applicants have made out case for allowing the present Civil Application. Hence, following order :

- a) Delay in filing Civil Application is condoned.
- b) Abatement is set aside.
- c) Applicant is permitted to bring legal heirs on record of deceased Sole respondent No.1 on or before 15.02.2019, failing which Civil Application shall stand dismissed without reference to

the Court.

d) If amendment is carried out within stipulated time, registry is directed to issue notice to the added respondent in Civil Revision Application No.1140 of 2012.

e) In addition to the usual mode of service applicants are directed to serve the added respondent in Civil Revision Application No.1140 of 2012 by private notice along with entire proceedings either by RPAD and or by hand delivery and file affidavit of service to that effect.

f) Civil Application stands disposed of.

g) No order as to costs.

(K.K.TATED, J.)