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

CIVIL APPLICATION (ST) No. 10779 OF 2019
IN
APPEAL FROM ORDER No. 319 OF 2019

Sharda Jagdishchandra Saroj	...Applicant
<u>In the matter of</u>	
Mr. Jagdishchandra Rambharose Saroj	...Appellant
Vs.	
The Municipal Corporation of Greater Mumbai.	Respondent

Mrs. Bhagyashree Gawas for Applicant
Ms. Oorja Dhond for BMC.

CORAM : SHRI K.K. TATED, J.

DATE : APRIL 24, 2019

P.C.:

1. Heard learned counsel for the parties.
2. By this civil application, the Applicant is seeking to recall the order dated 22nd March, 2019 passed by this Court, by which Appeal from Order as well as Civil Application stand dismissed for non-prosecution, and who seeking permission to bring on record the legal heirs of deceased sole Appellant Jagdishchandra Rambharose Saroj, who died on 9th February, 2017.
4. The learned counsel for the Applicant submits that the Applicant is the daughter of deceased Appellant. She submits that the Original Appellant never informed the applicant about pendency of the present appeal. Hence there is a delay in filing the application. She submits that therefore, in the interest of justice, this Court be condoned the delay in filing the civil application, restored the matter on file for hearing on its merits, be set aside abatement and allowed to bring legal heirs on

record.

4. Considering the submissions made by the learned counsel for the Applicant and the averments made in the civil application, I am satisfied that the Applicant has made out a case for allowing the civil application. Hence, following order:

ORDER

- (A) Order dated 22nd March, 2019 passed by this Court is recalled.
- (B) Appeal from Order (St) No. 19469 of 2016 as well as Civil Application (St) No. 19470 of 2016 are restored on file.
- (C) Delay in filing civil application for bringing the legal heirs on record of appellant is condoned and abatement is set aside.
- (D) The Applicant is permitted to carry out amendment in Appeal from Order as well as in civil application on or before 15th June, 2019, for bringing the legal heirs on record of appellant, failing which civil application stands dismissed without referring back to the Court.
- (E) If amendment is carried out within stipulated time as stated hereinabove, Applicant to serve amended copy of the Appeal from Order as well as civil application on Respondents immediately thereafter.
- (C) Civil Application stands disposed of accordingly.

[K.K. TATED, J.]