

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

**CIVIL APPLICATION NO.1719 OF 2013
IN
FIRST APPEAL NO.708 OF 1995**

The State of Maharashtra
(Through The Special Land
Acquisition Officer)

..Applicant

V/s.

Shri.Ganu B. Bhoir
(Deceased) Thr. Lrs.

1A. Shri.Govardhan Ganu Bhoir & Ors.

.. Respondents

Mr.Yogesh Dabke, AGP for the Applicant.

CORAM : K.K. TATED, J.

DATE : 30th JULY 2019

P.C.

1. Heard Mr.Dabake, learned AGP for the applicant.
2. The learned AGP submits that by this Civil Application, applicant is seeking permission to bring the legal heirs on record of deceased respondent No.3-Savalaram Bapu Bhoir who died on 22.08.1996. He submits that all the respondents are duly served.
3. In spite of service on respondents no one appeared on behalf of them when the matter was called out.

4. The learned AGP for the applicant submits that in the present proceeding, the applicant filed First Appeal No.708 of 1995 challenging the judgment and award dated 12.01.1994 passed by the learned District Judge, Raigad at Alibag in LAR No.23 of 1988. The learned AGP further submits that, though the respondent No.3 died on 22.08.1996, the other respondents failed and neglected to inform the same. He submits that the matter appeared before the learned Registrar on 08.05.2012 and 05.07.2012 for removal of office objection. At that time the applicant learnt that the notice issued to respondent No.3 has returned unserved with bailiff remark "Death".

5. The learned AGP submits that thereafter they called upon Deputy Collector (Land Acquisition), Metro Center No.3, Panvel, District-Raigad to inform the names and addresses of legal heirs of the deceased respondent No.3. He submits that concerned officer took some time to find out names and addresses of the legal heirs, hence the delay in the Civil application.

6. The learned AGP submits that for want of knowledge about the death of respondent No.3 it remained on their part, to preferred the Civil Application immediately. He submits that in the

interest of justice this Hon'ble Court, be pleased to condone the delay in filing the Civil Application. He submits that they have a good chance of success in the present matter. He submits that if the delay is not condoned irreparable loss will be caused to them.

7. Considering the submissions made by the learned AGP for the applicant, and the averments made in the Civil Application, the applicant learnt about death of the respondent No.3 when the matter was on board before the learned Registrar on 08.05.2012 and 05.07.2012 I am satisfied that the applicant has made out case for allowing the Civil Application. Hence, following order :-

ORDER

- (i) Abatement is set aside.
- (ii) Delay in filing the Civil Application is condoned.
- (iii) The applicant is permitted to bring the legal heirs on record of deceased respondent No.3 in First Appeal No.708 of 1995 along with all pending Civil Applications on or before 31st August 2019, failing which Civil Application shall stand dismissed without referring back to the Court.
- (iv) The Civil Application stand disposed of accordingly.
- (v) No order as to costs.

(K.K. TATED, J.)