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

**CIVIL APPLICATION NO.1143 OF 2019
IN
CIVIL WRIT PETITION NO.2372 OF 2004**

Dnyanda Co-Op. Hsg.Scy.Ltd & Ors. .

..Applicants

Vs

Smt. Gajarabai Santojirao Nalawade (Since Deceased)
through LRS & Ors.

..Respondents

Mr. S.D. Thokade for the Applicants.

Mr. Kunal Naik i/b Madhav Jamdar for Respondent No.2.

CORAM : A.S.GADKARI, J.

DATE : 13th September 2019

P.C.:

1] This is an application for condonation of delay of six years in filing the present application for setting aside abatement and bringing legal heirs of the respondent No.1 on record.

2] It is submitted that, the respondent No.1 expired on 25.3.2011 and the said fact was informed by the Advocate for the respondents to the Advocate for the petitioners on 12.7.2011. That the Secretary of the Petitioner No.1 Society was not keeping well and due to inadvertence he could not follow up the matter with his Advocate and therefore it caused delay in filing the application.

3] The learned counsel for the respondent No.2 vehemently opposed the application and submitted that, no plausible explanation is given by the petitioner for such an inordinate delay caused in filing application for condonation. He therefore prayed that, the present application may be rejected.

4] Perusal of the record would indicate that, the respondent No.1 is the contesting respondent. In view of the statement made by the learned counsel for the petitioner and in the interest of justice, the delay is condoned subject to payment of cost of Rs.5000/- to the High Court Legal Services Committee having their Account namely High Court Legal Aid Fund within a period of two weeks from today. It is made clear that, payment of cost is a condition precedent for condonation of delay.

5] In view thereof, the present application is allowed in terms of prayer clauses (a), (b) and (c).

6] Amendment be carried out within a period of four weeks from today and to serve amended copy of the petition upon the learned Advocate for the respondents within same stipulated period.

7] Application is allowed in the aforesaid terms.

(A.S.GADKARI, J.)