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

**CIVIL APPLICATION NO.387 OF 2019
IN
CROSS OBJECTIONS STAMP NO.29404 OF 2016
IN
FIRST APPEAL NO.490 OF 2015**

Shri Madhukar Undir Mhatre, since
deceased thru his legal representatives
1. Smt.Hirabai Madhukar Mhatre and Ors. .. Applicants

In the matter between

State of Maharashtra .. Appellant

vs.

Anant Pandurang Mhatre and Ors. .. Respondents

Mr.Sachin S. Punde for the Applicant

Mr.A.R.Patil, A.G.P. for the respondent no.1

**CORAM : K. K. TATED &
SARANG V. KOTWAL, JJ
DATE : DECEMBER 20, 2019.**

P.C.:

. Heard.

2 The learned counsel for the Applicant submits that by this Civil Application, they are seeking permission to bring legal heirs on record of deceased Respondent no.6 Madhukar Undir Mhatre who died on 22.03.2011. He submits that during the pendency of the present First Appeal, Respondent no.6 expired. He submits that as the appellant State of Maharashtra has not preferred any Application for bringing legal heirs on record of deceased Respondent no.6, Applicant filed present Application in cross objection for legal heirs.

3 The learned counsel for the Applicant submits that in the interest of Justice, this Hon'ble Court be pleased to condone the delay in filing present Application. She submits that office note shows that First Appeal stands abated against Respondent no.6.

4 The learned A.G.P. for the appellant submits that appellant may be permitted to carry out appropriate amendment in First Appeal by bringing legal heirs on record of deceased Respondent no.6 on the basis of present Civil Application. He submits that abatement order passed by learned Registrar may be set aside.

5 Considering the submissions made by the learned counsel for the Applicant, the averments made in the Application and as Respondent no.6 expired during the pendency of the present First Appeal, we are satisfied that the Applicant has made out a case for allowing the Application. Hence, following order is passed:

- a. Delay in filing Civil Application is condoned.
- b. Abatement in cross objection as well as First Appeal is set aside in respect of Respondent no.6.
- c. Applicant is permitted to bring legal heirs of deceased Respondent no.6 in Cross Objection (St.) No.29404 of 2016 on or before 31.01.2020.
- d. Appellant is also permitted to bring legal heirs on record of deceased Respondent no.6 in First Appeal No.490 of 2015 on or before 31.01.2020.
- e. Applicant is directed to serve amended copy of cross objection on appellant's advocate and appellant to serve amended copy of First Appeal on Claimant's advocate immediately thereafter.
- f. The Civil Application stands disposed of accordingly.
- g. No order as to costs.

(SARANG V. KOTWAL, J.)

(K.K.TATED, J.)