

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.4002/2014
IN
FIRST APPEAL NO.921/2001

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.
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Mr. |Omkar Paranjape I/b AM Gokhale for the Applicant.

CORAM : K.K.TATED, J.
DATED : APRIL 26, 2019

P.C.

- 1 Heard learned counsel for applicant.
- 2 Though respondent no.2 is served, no one appeared on behalf of them when the matter called.
- 3 This court by order dated 25.3.2019 granted time till 12.4.2019 to respondent no.2 to file their reply if any.
- 4 There is no affidavit in reply on behalf of respondent no.2.
5. Learned counsel for applicant submits

that by this civil application, the applicant is seeking permission to bring legal heirs on record of deceased/ appellant no.2 Begum Sayyad Murtuza who died on 5.12.2004. He further submits that it was remained on part of earlier advocate to take immediate steps for bringing the legal heirs on record of deceased /appellant no.2. He submits that in the meanwhile, earlier advocate expired. He further submits that thereafter applicant contacted present applicant. After considering papers and proceedings, present advocate suggested applicant to file civil application for bringing the legal heirs on record of the deceased/appellant no.2 and also make application for condonation of delay.

6. Learned counsel for applicant submits that they have good chance of success in the present matter. He further submits that , in the interest of justice, this court be pleased to condone the delay in filing civil application and abetment may be set aside. He further submits that if the civil application is not allowed, irreparable loss would be caused to them.

7. Considering the submissions made by learned counsel for applicant, averments made

in the civil application and because of mistake on the part of the advocate, litigant should not suffer, I am satisfied that applicant has made out a case for following order.

Order

a) delay in filing civil application is condoned.

b) abatement is set aside.

c) Appellant is permitted to bring legal heirs on record of deceased/appellant no.2 in First Appeal 921/2001 on or before 15.6.2019, failing which the civil application shall stand dismissed without referring back to this Court.

d) If amendment is carried out within stipulated time as stated above, the applicant to serve the amended copy of first appeal on other side by private notice either by RPAD and file report on or before 31.7.2019 failing which the civil application shall stand dismissed without referring back to this Court.

e) Civil application disposed of accordingly.

(K.K.TATED, J.)