

pmw

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

**CIVIL APPLICATION NO.1830 OF 2015
IN
SECOND APPEAL NO.194 OF 1988
WITH
CIVIL APPLICATION NO.1828 OF 2015**

Dattu Babaji Shinde (deceased)

by His heirs and LRs

Smt. Fulabai Dattatraya Shinde and Ors.

... Applicants

Vs.

Maruti Krishna Shinde and Ors.

... Respondents

Mr. Pradeep S. Gote for the Applicants.

Mr. Dilip Bodake for the Respondent Nos.1 to 7.

CORAM : SMT. SADHANA S. JADHAV, J.

DATE : 6th DECEMBER 2019.

P.C.:

1 It is submitted that Respondent Sarubai Bandu Shedage has expired in the year 2005 i.e. during the pendency of the present appeal and hence, this is an application for bringing her legal heirs on record which are at Sr. No.5(a) to 5(d) in the cause title of the application. It is submitted that in fact the deceased Sarubai Shedage was one of the legal heirs of Respondent No.6 Vaijyantabai Krishna Shinde and hence,

Respondent No.6(e) be deleted. Deletion be carried out forthwith. The learned counsel for the respondent has fairly submitted that there would be no difficulty in bringing the legal heirs on record. There is a delay of 10 years and 93 days in filing civil application to bring the legal heirs on record. The reasons assigned by the learned counsel for the applicant for the inordinate delay is that Advocate representing the appellant had expired in January 2013 and the litigant or the present Advocate would not be liable for explaining the delay caused at the hands of the earlier Advocate who is now no more. The learned counsel submits that the appeal would stand abated against Respondent No.5 only because of some neglect on the part of the Advocates representing the litigants and hence, in the interest of justice, the application be allowed. It appears from the records that the original appeal is of the year 1988. It was dismissed in the year 2005 for non-compliance of certain orders and thereafter with the permission of the Court, file has been reconstructed by the parties. Hence, the application deserves to be allowed in the interest of justice.

2 Application is allowed and stands disposed of.

3 Second appeal be listed for final hearing on 10th January 2020.

(SMT. SADHANA S. JADHAV, J.)