

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

**CIVIL APPLICATION NO.221 OF 2017**

**IN**

**SECOND APPEAL NO.401 OF 1994**

Akbar Ibrahim Mulani  
& Ors.

... Applicants

IN THE MATTER BETWEEN

Shri Shaikh Ibrahim Hasan Mulani  
Vs

...Appellant

Shri Dagdu Hasan Mulani & Anr.

... Respondents

...

Mr. Pranjali Bhandari for the Applicant.

Mr. Shailesh Chavan i/by Mr. Milind Deshmukh for the  
Respondents.

**CORAM : SANDEEP K. SHINDE J.**

**DATE : 22 JANUARY, 2019**

**P.C. :**

*The Second Appeal No.401 of 1994 was admitted by this Court on 27<sup>th</sup> June, 1994. The sole Appellant, who was the Original Plaintiff died on 8<sup>th</sup> December, 2006. His wife died on 13<sup>th</sup> May, 2009 and the married daughter expired on 5<sup>th</sup> July, 2016 This application is preferred to bring the legal representatives of the sole Appellant on*

record. It is submitted by the learned counsel for the Applicants that Respondent No.2 son of the deceased was looking after the present matter. However, since he declined to take appropriate steps, delay was caused in preferring the present application. That for the reasons stated in paragraph 8 of the Application, it is contended that delay be condoned and the order of abatement may be set aside.

2           The learned counsel for the Respondents opposes this application by filing affidavit-in-reply, denying the averments made in the application. He further contended that the Respondent No.2 is still handling on behalf of the applicants.

3           That the reasons stated in the application sufficient cause is shown to condone the delay and to set aside the order of abatement. Even otherwise, since the Second Appeal has been admitted on the substantial question of law, I am inclined to grant this application subject to cost of Rs.5,000/- which applicants shall pay to the respondent no.1 within two weeks from today. Subject to payment of cost, application is allowed. The applicants shall carry out amendment within two weeks from today and serve amended appeal memo on the

*Respondents within two weeks therefrom.*

4            *Civil Application is, accordingly, disposed of.*

**(SANDEEP K. SHINDE, J.)**