

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.3053 OF 2016
IN
FIRST APPEAL NO.672 OF 1993

Shri. Gulamsaheb Huseinmiya
Patel (decd.) through LR's .. Applicants
Versus
The State of Maharashtra through
Special Land Acquisition Officer
And Ors. .. Respondents

Mr. Akshay Kandharkar I/b R.S. Datar for applicants.
Mr. Yogesh Dabake, AGP for respondent No.1.
Mrs. Seema Sarnaik for respondent Nos.5 and 16.

CORAM: K.K. TATED, J.

DATED : MARCH 19, 2019.

P.C. :

- 1 Heard learned Counsel for parties.
2. Though the respondents are duly served no one appeared on behalf of them when the matter called out.
3. By this Civil Application, applicant is seeking permission to bring the legal heirs on record of deceased respondent No.3-Abdul Hamid Gulam Saheb Patel who died on 10.04.2015.
4. The learned Counsel for the applicant submits that for want of knowledge, it remain on their part to file Civil Application within time. He submits that he has good chance of success in the present matter. He submits that in the interest of justice this Hon'ble Court be pleased to condone the delay in filing Civil

Application and set aside the abatement.

5. Considering the submissions made by learned Counsel for the applicant, averments made paragraph Nos. 4 and 5 of the Civil Application, I am satisfied that the applicant has made out case for allowing this Civil Application. Hence, following order :-

- a) Civil Application is allowed in terms of prayer clause (a), (b) and (c), which reads thus :-

“a. that the delay of 157 days in filing the present Civil Application be kindly condoned;
b. that the abatement of the First Appeal be kindly set aside;
c. that the names of Respondent No.13/1 to Respondent No.13/8, be brought on record of the above First Appeal being the heirs and legal representatives of deceased Respondent No.13;”

- b) Applicant to carry out amendment on or before 30.04.2019, failing which Civil Application shall stand dismissed without reference to the Court.
- c) If amendment is carried out within stipulated time, as stated above, applicant to serve the amended copy of appeal memo on other side immediately thereafter.
- d) If amendment is carried out within time, registry is directed to issue notice to the added respondents in First Appeal No.672 of 1993.
- e) In addition to the usual mode of service

applicant is directed to serve the respondents in First Appeal No.672 of 1993 by private notice along with entire proceedings either by RPAD and or by hand delivery and file affidavit of service to that effect on or before 30.06.2019.

- f) Civil Application stands disposed of accordingly.
- g) No order as to costs.

(K. K. TATED, J.)