

DDR

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 303 OF 2018
IN
SECOND APPEAL NO. 198 OF 1998**

Shridhar Bidesh Gosavi (since deceased) by his
heirs and LRs 1a. Narayan ShridharGosavi & ors. ..Applicants

vs.

Razak Esmail Chaugule (since deceased) by his
heirs and LRs 1a. Najeer Razak Chougule & ors. ..Respondents

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Shri G.H. Keluskar for applicants.

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CORAM : M.S.KARNIK, J.

DATE : 12th JULY, 2019

P.C. :

This is an application for bringing the legal heirs of respondent No.2 on record. The office remark shows that respondent No.2a is not served but in connected Civil Application Nos. 300 of 2018 and 301 of 2018, respondent No.2a is shown as served. The respondent Nos.2a did not appear in those Civil applications which are shown along with the present Civil Application.

2. There is a delay of 7 years and 224 days in filing the application and also for setting aside abatement.

3. The delay in filing the application has been explained in paragraphs 4 and 5 of the application. Though there is much delay in filing the application, in my opinion, the appellant's right to contest the Appeal should not be foreclosed only on the ground that there is a delay in bringing the legal heirs on record. The appellant should be given an opportunity to contest the Appeal on merits.

4. The delay in filing the application as well as for setting aside the abatement is condoned in the interest of justice.

5. The application is allowed in terms of prayer clauses (a) to (d).

6. Consequential amendments to be carried out within a period of 2 weeks from today.

7. The Civil Application is disposed of.

(M.S.KARNIK, J.)