

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

SECOND APPEAL NO.146 OF 2015

(Somayya Parvin d/o Abdul Kaleem and another Vs. Hafeezabi w/o Bismillah Khan
and another)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.*

Court's or Judge's orders.

Shri M.Y. Wadodkar, Advocate for Appellants.
Shri A.M. Quazi, Advocate for proposed LR's of Respondent 1 (2).

CORAM: ROHIT B. DEO, J.

DATE: 13th MARCH, 2019.

Civil Application (CAS) No.199/2017:

This application is taken out by the appellants for condonation of delay in bringing on record the legal heirs of respondent 1, who died on 27.08.2014.

2] The learned counsel for the proposed legal heirs is seriously objecting to the condonation of delay.

3] It has come to the notice of this Court, time and again, that the counsel appearing on record is not alive to his or her duty to disclose to the Court that the client has expired. This is one such instance of the failure of the counsel to discharge the obligation to bring on record the death of the client. The death of respondent 1 is informed to this Court by the respondent 2 only on 10.08.2016 by taking out an application for dismissal of the appeal. Be that as it may, this Court is satisfied, that for reasons stated in the application, *inter alia* in paragraph 2 of the application, the

delay deserves to be condoned.

4] The application is allowed.

Civil Application (CAS) No.200/2017:

For reasons recorded while allowing Civil Application (CAS) 199/2017, this application is allowed. The delay in filing for setting aside abatement is condoned.

Civil Application (CAS) No.201/2017:

For reasons recorded while disposing Civil Application (CAS) 199/2017 the abatement as against respondent 1 is set aside.

Civil Application (CAS) No.202/2017:

For reasons recorded in Civil Application (CAS) 199/2017, this application is allowed. The legal heirs of the deceased respondent 1 be brought on record and the cause-title be amended within a week.

The learned counsel waives service for the legal heirs of respondent 1.

JUDGE