

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

CIVIL APPLICATION (CAS) Nos. 867, 868 and 869 OF 2018
in SECOND APPEAL NO. 50 OF 2018

Udhav s/o Damu Pachkate

vs.

Vithu s/o Rama Lonare & others

Office Notes, Office Memorandum of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri. K. B. Zinjarde, Advocate for the appellant.
Smt. Hemlata dhande, Advocate for respondents.

CORAM : Manish Pitale J

DATED : 23.08.2019

These are applications filed by the appellant for bringing on record legal representatives of deceased, the respondent No.6 and for setting aside abatement of appeal, as well as the condonation of delay in filing the applications.

2. It is pointed out that the delay could not be attributable to the appellant herein, because the fact about demise of respondent No.6 was not brought to the notice of the Courts below at the relevant time by the original plaintiffs. Considering this fact, this Court is inclined to allow the present applications.

3. Hence, for the reasons stated in the applications, the same are allowed. Consequently, delay

is condoned, abatement is set aside and the legal representatives of the respondent No.6, details of whom are given in paragraph 8 of the Civil Application No.869/2018 are permitted to be brought on record. The consequential amendment be carried out within two weeks from today. Upon such amendment being carried out, issue notice to the legal representatives of respondent No.6, returnable in four weeks.

4. The learned counsel for the appellant has pointed out that there is an office objection raised in respect of respondent No.2. It is pointed out that the respondent No.2, had expired, during the pendency of the proceeding before the trial Court. In fact, in the order of the trial Court itself it was observed that the suit had abated in so far as said defendant No.2 (respondent No.2) herein was concerned. In these circumstances, the appellant is permitted to delete the name of respondent No.2. Hence, the office objection does not survive. The amendment be carried out in the aforesaid period of two weeks.

JUDGE

KOLHE