

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

913 CIVIL APPLICATION NO.10484 OF 2019
IN SA/808/2016 WITH CA/15290/2016 IN SA/808/2016

MRS. JYOTI RASIK KOTHARI AND ANR
VERSUS
DAGU SHANKAR GAIKWAD (DIED) AND ORS

Mr. A. S. Bajaj, Advocate for the applicants.

CORAM : S. M. GAVHANE, J.
DATED : 30.01.2020

PER COURT :-

. Applicants/appellants have moved this application to condone the delay of 150 days caused in filing application to bring on record the legal representatives of respondent No. 1, who are respondent Nos. 2 and 4 to 6 in the appeal.

2. Notice was issued to proposed LR's of respondent No. 1 who are respondent Nos. 2, 4 to 6 in the appeal and they have been served with the notice. Though, they have appeared in the appeal through advocate, nobody is present for them today.

3. Mr. Bajaj, learned counsel for the applicants submitted that LR's of respondent No.1 are the respondent Nos. 2, 4 to 6 in the appeal and therefore, as the LR's are already on record, applicants be permitted to show them as LR's of respondent No. 1 in the appeal. It is further submitted that respondent No. 1 died on

12/11/2018. Applicants are not family members of the respondents. Therefore, they were not aware of death of respondent No. 1 and later on, when they came to know about death of respondent No.1 they have obtained death certificate and immediately filed this application, however, delay has been caused. It is submitted that delay is not intentional. It is also submitted that when respondent Nos. 2, 4 to 6 in the appeal who are LR's of respondent No. 1 are on record, there is no abatement of appeal against respondent No.1 and hence application be allowed.

4. Considering the submissions and particularly the fact that respondent Nos. 2, 4 to 6 in the appeal who are LR's of respondent No. 1 are already on record, it is just to allow the application. Therefore, application is allowed in terms of prayer clauses (B), (C) and (D).

5. Applicants to carry amendment in the cause title of appeal to show respondent Nos. 2, 4 to 6 in appeal as LR's of respondent No. 1 within two weeks from today. Place the appeal for further consideration on 18/03/2020.

[S. M. GAVHANE, J.]