

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**942 CIVIL APPLICATION NO.14358 OF 2019
IN SA/368/2011**

VITHAL SHIVDAS DHONGADE DIED LRS. KALAVATI AND
OTHERS
VERSUS
PANDURANG YESHWANTRAO DHONGADE

...
Advocate for Applicants : Mr. H.R. Lomate h/f Mr. Salunke
V.D.

Advocate for Respondent : Mr. A.M. Gaikwad

...

**CORAM : S.M. GAVHANE, J.
DATED : 10TH JANUARY, 2020.**

PER COURT:-

. Heard learned counsel Mr. Lomate holding for Mr. V.D. Salunke, the learned counsel appearing for the applicants and Mr. Gaikwad, the learned counsel appearing for the respondent.

2. Appellants have moved this application to allow them to bring on record legal heirs of appellant no.1 Vithal Shivdas Dhongade, who died on 06.01.2019 on record, by condoning the delay of 190 days caused in moving this application as well as setting aside abatement of appeal, if any.

3. Learned counsel appearing for the applicants submitted that appellant no.1 died on 06.01.2019 due to old age and immediately after the applicants came to know

(2)

about death of appellant no.1, this application is moved. However, the delay has been caused in moving the application. It is submitted that the delay is not intentional and the same may be condoned and legal heirs of appellant no.1 may be allowed to be brought on record.

4. Learned counsel appearing for the sole respondent though opposed to grant the application, nothing is produced on record to substantiate the objections.

5. Considering the submissions made by the learned counsel appearing for the applicants and the fact that right of way has been claimed against the appellants/original defendants by the respondent/original plaintiff, it is just to allow the applicants to bring on record legal heirs of appellant no.1 by condoning the delay in the ends of justice. Thus, the delay caused in moving the application is condoned. The applicants are allowed to bring on record legal heirs of appellant no.1 Vithal Shivdas Dhongade. Necessary amendment be carried out to show legal heirs of appellant no.1 within two weeks. Application is accordingly disposed of.

(S.M. GAVHANE, J.)