

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO.2880 OF 2017
IN
WRIT PETITION NO.9066 OF 2003**

Rajaram Chimaji Karale (since deceased)
through legal heirs & Ors.

.... Applicants/
Petitioners

versus

State of Maharashtra & Ors.

.... Respondents

.....

- Mr.Mohil Panjabi i/b. Sanjay S. Gawde, Advocate for Applicants/Petitioners.
- Mrs.S.S. Bhende, AGP for Respondent Nos.1 and 2.
- Mr.Sangram P. Pawar, Advocate for Respondent Nos.3 and 4.
- Mr.Prasad P. Kulkarni, Advocate for Respondent Nos.3A to 3D.

**CORAM : K. K. TATED &
SARANG V. KOTWAL, JJ.**

DATE : 09th JANUARY, 2020.

P.C. :

1. Heard learned Counsel for the parties.
2. By this Civil Application, the Application/Petitioner is seeking permission to bring the legal heirs on record of deceased Respondent No.3 who died on 02/12/2012.

3. Learned Counsel Mr.Sangram P. Pawar submits that he has received instructions to appear on behalf of legal heirs of deceased Respondent No.3.
4. Learned Counsel for Applicant Mr.Mohil Panjabi submits that there is delay in filing Civil Application. He submitted that the present Writ Petition was filed in 2003, whereas the Respondent No.3 expired in 2012. He submits that for want of knowledge about the death of Respondent No.3 it was remained on their part to take appropriate steps immediately. He submitted that in the interest of justice this Court be pleased to condone the delay and set aside the abatement and allow them to place on record the legal heirs of deceased Respondent No.3.
5. On the other hand, learned Counsel appearing on behalf of legal heirs of deceased Respondent No.3 vehemently opposed present application. He submitted that Applicant failed

to disclose the cause of condonation of 357 days delay. Hence there is no substance in the present application and hence same be dismissed with costs.

6. We have heard both parties.

7. It is to be noted that Respondent No.3 expired during the pendency of the present Writ Petition. The Petition was filed in 2003 and Respondent No.3 expired in the year 2012. The reason given by the Applicant is that for want of knowledge of death of Respondent No.3, it was remained on their part to prefer the present application immediately. Same can be treated as cause for condonation of delay.

8. In view of this fact, following order is passed:

- (a) Abatement is set aside.
- (b) Delay in filing the Civil Application is condoned.
- (c) The Applicant is permitted to bring the legal heir on record of deceased Respondent No.3 in Writ

Petition No.9066/03 on or before 31/01/2020, failing which the Civil Application shall stand dismissed without referring back to the Court.

- (d) If amendment is carried out within time, the Applicant is directed to serve the amended copy of Writ Petition on Respondent immediately.
- (e) Advocate Mr.Sangram P. Pawar waives service in Writ Petition No.9066/2003 on behalf of legal heir of deceased Respondent No.3.
- (f) Civil Application is made absolute accordingly.
- (g) No order as to costs.

(SARANG V. KOTWAL, J.)

(K.K.TATED, J.)