

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.1649 OF 2017
IN
SECOND APPEAL NO.142 OF 1996

Khandu Mhatarba Jadhav .. Applicant

Vs.

Smt. Bhiubai Chindhu Kale
(Since deceased through LRs)
Chindhu Gopala Kale & Ors. .. Respondents

...

None for the Applicant/Appellant.

Ms. Ruchita Kadam i/b Mr. Sachin Kadam for Respondent Nos.1 - C to 1G.

Mr. Abhishek Matkar i/b Mr. Sanjiv Sawant for Respondent Nos.3 and 4.

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CORAM: SMT. BHARATI DANGRE, J.

DATED : 27th FEBRUARY, 2020.

P.C:-

1. The Second Appeal is admitted on 04/11/1996.
2. Civil Application No.1649 of 2017 is taken out by the Applicant seeking to condone the delay of 173 days in filing the

present Civil Application and for restoration of Second Appeal to its file, which was declared to be abated against Respondent No.1.

3. The Applicant in paragraph 3 of the Application proceeded to state that a Civil Application was preferred for bringing the legal heirs of Respondent No.1 on record and by order dated 05/01/2017 the amendment was directed to be carried out within two weeks. Inadvertently, due to the negligence of the clerk of the concerned advocate, there was failure to carry out the amendment. This has occasioned a delay and, as soon as the Applicant gained knowledge about it on 12/07/2016, he had taken out the Civil Application for restoration and condoning the delay.

4. On perusal of the grounds stated in paragraph Nos.3 and 4 of the Application, I am satisfied that sufficient cause has been shown to condone the delay and cure the lapse. Resultantly, the Civil Application is allowed in terms of prayer clauses (a) and (b).

5. The Second Appeal stands restored to the file as against Respondent No.1 after bringing the legal heirs on record to represent Respondent No.1 on his demise.

[SMT. BHARATI DANGRE, J.]