

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

907 CIVIL APPLICATION NO.2735 OF 2021
IN SA/842/2016

KAMLABAI POPAT DOMALE AND ANOTHER
VERSUS
SHAHABAI BAJIRAO DOMALE (WITNOR) AND OTHERS

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Mr. V.R. Dhorde, Advocate for applicants
Mr. R.S. Kasar, Advocate for respondent Nos.1, 3 and 4 in SA

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CORAM : SMT. VIBHA KANKANWADI, J.
DATE : 15th JULY, 2021.

PER COURT :

1 Present application has been filed for condoning the delay of 977 days caused in filing civil application for bringing legal representatives of respondent No.5 on record.

2 Heard learned Advocate Mr. V.R. Dhorde for the applicants and learned Advocate Mr. R.S. Kasar for respondent Nos.1, 3 and 4 in the Second Appeal.

3 It has been vehemently submitted on behalf of the learned Advocate for the respondent Nos.1, 3 and 4 in the Second Appeal that the

appellants-applicants are unnecessarily dragging the proceedings and want to deprive the respondents of the fruits of the decree. They were well within the knowledge of the death of respondent No.5 and now they claim that in fact they are the legal representatives left by respondent No.5. Whatever reasons have been given for delay are absolutely not sufficient, much less reasonable.

4 Important point to be noted is that as per the present applicant No.1, she herself and respondent Nos.1 and 2 are the heirs of respondent No.5. That means, the legal heirs of respondent No.5 are already on record. However, they were not brought on record in that capacity as heir. Therefore, taking into consideration this aspect, though such step ought to have been taken by the applicants within limitation or reasonable time, in view of the fact that the limitation may not apply to the parties who are already on record; yet, when such amendment is sought, there is no hurdle in allowing this application. However, the way in which the application has been handled, deserves imposition of costs. Hence, the application stands allowed in terms of prayer clause 'A' and 'B', subject to deposit of costs of Rs.6,000/-, (Rupees Six Thousand only) in this Court, within a period of 15 days. After the amount is deposited, it be disbursed to respondent Nos.1, 3 and 4, equally.

5 In view of this order, civil application stands disposed of.

(Smt. Vibha Kankanwadi, J.)

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