

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.1174 OF 2016
IN SA/262/1994

BABASAHEB S/O TATYABA BAHIR AND OTHERS
VERSUS
MANGESHRAO S/O RAMESHWARRAO TENDULKAR AND OTHERS

...

Mr. Kuldip S. Patil h/f Mr. S. S. Choudhary, Advocate for applicants.
Mr. V. D. Salunke, Advocate for respondent No.1.

...

CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 23.09.2021

ORDER :-

. Present application has been filed to bring the legal representatives of appellant No.3 on record and for condoning the delay of 239 days in filing such application.

2. Though there is delay, it is not necessary to issue notice to the proposed legal representatives as another application i.e. Civil Application No.9087 of 2021 has been filed to take the compromise on record, in which the proposed legal representatives are already party.

3. The first and the foremost fact that is required to be noted is that though the present application was filed on 23.09.2015 and it appears that it was numbered in 2016, till today it was not got for circulation. Not even the first order was sought on the application on any earlier

point of time. This practice will have to be deprecated. Another fact that is required to be noted is that appellant No.3 – Sakharam died on 29.10.2014. He is survived by present applicant Nos.15 and 16. The application has been drafted in such a manner that the knowledge about pendency of the second appeal was not attributed to applicant Nos.15 and 16. There is absolutely no reason as to why the other appellants who are already on record had not made any kind of effort to bring the legal representatives of appellant No.3 on record. Though, now there is compromise, yet, while allowing the application, cost will have to be imposed on the applicants for not getting the matter circulated for so many years and for adopting lethargic attitude. Hence, the application stands allowed and disposed of.

4. The delay caused in filing application for bringing legal representatives of deceased appellant No.3 on record stands condoned subject to deposit of cost of Rs.5,000/- to be paid to the High Court Legal Services Authority, Sub Committee, Aurangabad within a period of 15 days from today.

5. Necessary amendment be carried out after the deposit of cost amount.

[SMT. VIBHA KANKANWADI, J.]

scm