

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

**INTERIM APPLICATION NO. 778 OF 2021
IN
FIRST APPEAL NO. 922 OF 2018**

Arjun Dashrath Bhuse (Khairnar) & Ors. ... Applicants

Versus

Shankar Mahadu Khairnar & Ors. ... Respondents

.....

Mr. Ranjit Thorat, Senior Advocate a/w N.R. Bubna and F.A. Wasif for the Applicants.

Mr. Chintan Yogesh Shah for Respondent Nos.1 to 3.

.....

**CORAM : K.K. TATED &
R.I. CHAGLA, JJ.**

DATE : 19th MARCH, 2021.

PC. :-

1 Heard learned Counsel for the parties.

2 By this Interim Application Applicants are seeking permission to bring the legal heirs on record of deceased Appellant No.4 Nisar Ahmed Mohd. Umar who died on 14.05.2020.

3 The learned Senior Counsel for the Applicants submits that Applicant No.4 expired during the period of Covid-19. He submits that this Court as well as Apex Court from time and again extended the limitation period. He submits that considering the orders passed by the Apex Court as well as the order passed of this Court, the Application filed by the Applicants is in time. He further submits that in any case if there is a delay that to be condoned in the interest of justice. He submits that in the interest of justice this Hon'ble Court be pleased to allow the present Application permitting the Applicants to bring the legal heirs on record of deceased Applicant No.4.

4 The learned Counsel Mr. Chintan Yogesh Shah appearing on behalf of Respondent Nos.1 to 3 vehemently opposed the present Application. He submits that the Applicants had knowledge about the death of Applicant No.4 inspite of that they failed and neglected to refer the present Application within time. He further submits that the Applicants preferred other proceedings in respect of the same matter in this Court. Therefore, there is no question of allowing the present Application.

5 Considering the submission made by learned Senior Counsel for the Applicants, averments made in application and the orders passed by this Court as well as Apex Court from time to time, extending the period of limitation, we are satisfied that Applicants have made out a case for allowing this Application. Hence, the following order is passed:

- i) Delay in filing the Application is condoned.
- ii) Applicants are permitted to bring the legal heirs on record of deceased Appellant No.4 in First Appeal No.922 of 2018 and pending applications if any, on or before 31.03.2021.
- iii) If amendment carried out within time, the Applicants are directed to serve the amended copies of First Appeal as well as pending Civil Application if any, on the Respondents immediately by private notice and file affidavit of service to that effect on or before 06.04.2021.
- iv) Interim Application stands disposed of accordingly.
- v) No order as to costs.

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Waishali S.
Waghmare
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(R.I. CHAGLA, J.)

(K.K. TATED, J.)