

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 2756 OF 2021
IN
XOBST 16863 OF 1999
IN
FIRST APPEAL NO. 620 OF 1998

Rajabhau Surajmal @ Suresh
Rathi & Ors.

.. Applicants

IN THE MATTER OF

The State of Maharashtra
Vs.

.. Appellant

Rajabhau Surajmal @ Suresh
Rathi & Ors.

.. Respondents

...

Ms. Rukmini Khairnar i/b Mr. P.N. Joshi, for the applicants/
Petitioners.

...

CORAM : SMT. BHARATI DANGRE, J.

DATED : 07TH OCTOBER, 2021.

P.C:-

1. The Respondent No. 1 Rajabhau Surajmal @ Suresh Rathi in First Appeal No. 620 of 1998 has passed away. In the cross objection filed in the First Appeal, he is appellant No. 1.

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2. In the event of the death of Respondent No. 1, his legal heirs are sought to be brought on record in the proceedings i.e. First Appeal and in the cross objection. The reason for the delay in bringing his legal heirs in the cross objection, is sought to be justified by the applicant by stating that when the Appeal was listed for final hearing in the month of February 2020, he came to the knowledge about the death of Rajabhau Surajmal @ Suresh Rathi and, therefore, details were sought from the advocate of the Respondent No. 1 in the form of the death extract and details of the legal heirs. Thereafter, since March 2020, the lock down was imposed, the necessary steps could not be taken. This has occasioned 95 days' delay and by condoning the delay, the abatement is prayed to be set aside.

3. Heard learned Counsel for the applicant and perused the application. Sufficient cause has been shown in paragraph No. 3 of the application, which would justify the condonation of delay and since the legal heirs of the Respondent No. 1 are necessarily to be brought on record, the application is allowed in terms of prayer clauses (a) and (b). The necessary amendment shall be carried out within a period of one week from today in the cross objection (ST.) No. 16863 of 1999.

4. In the wake of death of Rajabhau Surajmal @ Suresh Rathi, who is also Respondent No. 1 in First Appeal No. 620 of 1998, the Appellants are directed to bring his legal heirs on record. The State of Maharashtra is represented through Government Pleader and, hence, the Registry is directed to bring the aforesaid order to

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the notice of the office of the Government Pleader, so that the necessary steps can be taken to substitute name of the Respondent No. 1 by his legal heirs.

5. Interim Application No. 2756 of 2021 stands disposed of.

[SMT. BHARATI DANGRE, J.]