

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.2964 OF 2019
IN
FIRST APPEAL NO.54 OF 2000

Zina Margaret Fernandes & Ors. .. Applicants

Versus

Mary Paul D'Mellow (since deceased through
LRs) 1(a) Mrs.Carol Pereira & Ors. .. Respondents

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Mr.D.B.Pereira i/b Mr.Deepak Lulia for the Applicants.

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CORAM: BHARATI DANGRE, J.
DATED : 21st OCTOBER, 2021

P.C:-

1. By the present application, the Applicants/Appellants are seeking an amendment in the First Appeal by bringing the legal heirs of Appellant No.2 on record.

2. Appellant No.2 is informed, to have been expired on 10/03/2015. The application for bringing the legal heirs of Appellant No.2 is filed on 25/05/2019 and the delay in moving this application, which is calculated to be 1450 days is sought to be explained in para 11 of the application. The reason cited is to the effect that the Appeal itself was dismissed in default

on 29/01/2016 and the application for restoration of the First Appeal was moved on 04/02/2016. During the aforesaid period when the First Appeal itself was not alive, it precluded the Appellants from bringing the legal heirs of Appellant No.2 on record, who ought to have been brought on record within a period of 90 days.

3. The reasons cited justify the condonation of delay in bringing the legal heirs of Appellant No.2 on record and Appellant No.2(a), being the legal heir and representative of deceased Appellant No.2, is permitted to be substituted in the Appeal memo be effecting necessary amendment.

6. The application is allowed in terms of prayer clause (A). Necessary amendment be carried out within a period of one week from today.

(SMT. BHARATI DANGRE, J.)