

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY****CIVIL APPELLATE JURISDICTION****CIVIL APPLICATION NO. 539 OF 2010****IN****SECOND APPEAL NO.474 OF 2007**

Ananda Raghunath Nikam  
Since deceased through LRs.

... Applicant/Appellant

**V/s.**

Dhondu @ Daga Anand Nikam and Ors.

... Respondents

Mr. R. N. Gite for Applicant/Appellant.

Ms. Rukmini Khairnar i/b. Mr. P. N. Joshi for Respondent No.1.

**CORAM : A.S. GADKARI, J.**

**DATE : 3<sup>rd</sup> DECEMBER, 2021.**

**PC. :**

1. This is an application for bringing legal heirs of sole Appellant and Respondent No.3 on record.

There is a delay of 1 year and 109 days in filing the present Application.

2. Ms. Khairnar, learned Advocate appearing for the Respondent No.1 submitted that, the said delay is inordinate and has not been properly explained by the legal heirs of the Appellant and therefore the present application may not be entertained. He further submitted that, if the Court is

inclined to condone the delay in the interest of justice, reasonable cost may be imposed upon the Applicants.

3. Perusal of the application would indicate that, though the legal heirs of the sole Appellant are well aware of the fact about pendency of the present Second Appeal, they did not take immediate steps for bringing themselves on record within the period of limitation. However, taking into consideration the delay caused for filing the present application and in the interest of justice, it will be appropriate to impose cost of Rs.10,000/- upon the Applicants/Appellant for condoning the delay.

4. In view thereof, delay is condoned, abatement if any, is set aside and the application is allowed in terms of prayer clauses (a) and (b), subject to condition that, the Applicants shall pay a cost of Rs.10,000/- (Rs.Ten Thousand Only) to the High Court Legal Services Committee, Mumbai having its account namely "High Court Legal Aid Fund", Account No. 60045304283, IFSC-MAHB0000002 of the Bank of Maharashtra, Branch-Fort, Mumbai-400032, maintained by the High Court Legal Services Committee, Mumbai, Room No. 105, 1st Floor, PWD Building, High Court, Mumbai and to furnish the details of such cost to the High Court Legal Services Committee, Mumbai and obtain the receipt thereof physically or through Email i.e. hclsc.mumbai@gmail.com which shall be the proof of such payment/ deposit. The cost be deposited within a period of two weeks from today.

5. Necessary amendment in the record of Court and in the copy of Appeal served upon the learned Advocates for Respondents be carried out within a period of two weeks from today.

6. Application is allowed in the aforesaid terms.

**[A.S. GADKARI, J.]**

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