

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

**CIVIL APPLICATION NO.9 OF 2020
IN
FIRST APPEAL NO.49 OF 2016**

Trusha
T.
Mohite

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The State of Maharashtra & Anr.

.. Applicants

vs.

Vithoba Devasthan through Occupier
and Ors.

.. Respondents

.....

Mr.Y.Y.Dabke, A.G.P. for the State

.....

**CORAM: K.K.TATED &
N. R. BORKAR, JJ.
DATED : JANUARY 05, 2021**

P.C.

. Heard.

2. By this Civil Application, applicant is seeking permission to bring legal heirs on record of deceased respondent no.4 who died on 30.10.2017.

3. The learned A.G.P. for the applicant submits that for want of knowledge about the death of Respondent no.4, there is a delay in filing the present application. He submits that if delay is not condoned, irreparable loss and injury will be caused to the applicant. He submits that they have good

chance of success in the present matter.

4. Though respondents are duly served, no one appeared on behalf of them when the matter was called out.

5. Considering the submissions made by the learned counsel for the applicant and the averments made in the Civil Application, we are satisfied that the applicant has made out a case for allowing the Civil Application. Hence, following order is passed:

A. Civil Application is allowed in terms of prayer clause (b), (c) and (d) which reads thus:

“(b) that this Hon’ble Court be pleased to set aside the abatement of the abovementioned matter;

(c) that this Hon’ble Court be pleased to condone the delay of 1 year 4 days in preferring abovementioned Civil Application for bringing legal heirs of deceased Respondent no.4 on record;

(d) that this Hon’ble Court be pleased to allow the Applicant to bring legal heirs on record of deceased Respondent no.4, as stated hereinabove.”

B. Amendment be carried out on or before 30.01.2021.

C. If amendment is carried out within time, Registry is

directed to issue notice to added respondent in First Appeal No.49 of 2016.

D. Civil Application stands disposed of accordingly.

(N. R. BORKAR, J.)

(K.K.TATED, J.)