

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Civil Application (CAO) No.1726/2018

AND

Civil Application (CAO) No.323/2019

AND

Civil Application (CAO) No.322/2019

IN

Civil Application (CAS) No.344/2018

IN

Second Appeal Stamp No.1626/2018

Balvindar Kripalsingh Bhamra Vs. Haridas Zibal Lokhande & Anr.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Shri N.B. Bargat, Advocate for the Applicant/Appellant.

CORAM : S.M. MODAK, J.

DATE : 11th AUGUST, 2021.

Respondent No.1 expired and the appellant got knowledge on the basis of the service report. This Court has issued notice to the legal representatives of respondent No.1 as per the order dated 11th February, 2019. Notice was served on respondent Nos.1(b) and 1(c) by paper publication whereas respondent 1(a) has refused to accept the service. Hence, the service is effected.

There is a delay of 367 days in filing the application for bringing on record the legal representatives of respondent No.1. The appellant has calculated the period from the date of knowledge of death. Copy of the death certificate is annexed wherein the date of death is mentioned as 31st August, 2017. The reasons are convincing. Hence, the order:-

ORDER

1. The abatement for not bringing the legal representatives of respondent No.1 is set aside.
2. The delay caused in filing an application for setting aside abatement and for bringing the legal representatives of respondent No.1 is condoned.
3. The name of respondent No.1 be deleted and the names of his legal representatives be brought on record.
4. These civil applications are disposed of.

Civil Application (CAS) No.344/2018

Heard learned Advocate Shri Bargat for the appellant.

There is a delay of 48 days in preferring the second appeal. Present appellant is the original plaintiff. Even though there was a decree for specific performance in his favour, the first Appellate Court has reversed the decree. Though the legal representatives of respondent No.1 served, have not appeared. Respondent No.2 is duly served. The reasons given for condonation of delay in paragraphs 3, 4 and 5 are convincing.

Hence, the delay of 48 days in preferring the second appeal is condoned.

The civil application is disposed of.

The matter be kept on 20th September, 2021 for admission.

JUDGE